

COUNCIL MEETING

JUNE 3, 2015

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, June 3, 2015 at 8:47 a.m., after which the following members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda as circulated, seconded by Councilmember Kagawa, and unanimously carried.

MINUTES of the following meetings of the Council:

February 6, 2015 Facilitated Shared Priorities Workshop

Councilmember Yukimura: Council Chair?

Council Chair Rapozo: Councilmember Yukimura, do you want another deferral?

Councilmember Yukimura: Yes. May I explain why?

Council Chair Rapozo: I think we know why, but sure, go ahead.

Councilmember Yukimura: I want to ask for one (1) more deferral. I have read through all the minutes, this time, but there is an inconsistency in the summary that was sent to us by the Administration and the documents that are part of the minutes. I put in a call to Linda Colburn, Facilitator, but have not received a call back. That inconsistency needs to be reconciled.

Council Chair Rapozo: Thank you. Let us take up item one first. Is there any discussion before we take the motion to defer? None. Go ahead, Councilmember Yukimura.

Councilmember Yukimura moved to defer the Minutes of the February 6, 2015 Facilitated Shared Priorities Workshop, seconded by Councilmember Hooser, and carried by the vote of 6:1 (*Councilmember Kagawa voting no*).

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Next item.

April 22, 2015 Public Hearing re: Bill No. 2584, and Bill No. 2585
April 22, 2015 Council Meeting
May 27, 2015 Public Hearing re: C 2015-155

Councilmember Kagawa moved for approve the Minutes as circulated, seconded by Councilmember Kualii.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide public testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and unanimously carried.

CONSENT CALENDAR:

C 2015-155 Communication (05/07/2015) from the Mayor, submitting his supplemental budget communication for Fiscal Year 2015-2016 and proposed amendments to the budget bills, pursuant to Section 19.02A of the Kaua'i County Charter.

C 2015-160 Communication (05/12/2015) from Councilmember Kualii and Councilmember Yukimura, transmitting for Council consideration, a Resolution Urging Hawai'i's Congressional Delegation To Address Excessive Campaign Spending By Proposing And Passing Amendments Clarifying That Corporations Are Not People With Constitutional Rights, In Particular Electoral Rights, And That Unlimited Campaign Spending Is Not Free Speech.

C 2015-161 Communication (05/12/2015) from the Council Chair, transmitting for Council consideration and confirmation, Council appointee Lawrence Chaffin, Jr., to the Kaua'i Historic Preservation Review Commission (At-Large) for the County of Kaua'i – Term ending 12/31/2015.

C 2015-162 Communication (05/13/2015) from Councilmember Chock, transmitting for Council consideration, a proposed draft Bill to amend Chapter 6, Article 13, Sections 13.1 and 13.2, Kaua'i County Code 1987, as amended, relating to the recovery of rescue expenses. The purpose of this Bill is to amend the definition of "Recoverable Expenses" to include fuel expenses relating to a rescue and clarify and align the language in Section 13.2 with Hawai'i Revised Statutes, Section 137-2.

Councilmember Kagawa moved to receive C 2015-155, C 2015-160, C 2015-161, and C 2015-162 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: Any discussion? Is anyone here for the budget or the Citizens United Resolution? Are you going to be here later in the day? Okay, because it will come up later. I just wanted to accommodate those that came and had to leave. Thank you, Matt, we will take that up when get to the Resolutions.

The motion to receive C 2015-155, C 2015-160, C 2015-161, and C 2015-162 for the record was then put, and unanimously carried.

COMMUNICATIONS:

C 2015-163 Communication (05/11/2015) from the Executive on Aging, requesting Council approval to receive, and expend ACT 151 funds in the amount of \$134,077, for ongoing program costs for Better Choices Better Health and EnhanceFitness, and to indemnify the State Executive Office on Aging: Councilmember Kagawa moved to approve C 2015-163, seconded by Councilmember Kualii.

Council Chair Rapozo: Any discussion? Staff is passing out the literature, and Kealoha is here. At the last meeting, I did state that the supporting documentation would be required to be on the communication in order for it to be posted. This one was right in the transition period, so it was posted, but this is the information. I want to know if anyone needed to get further information from Kealoha. I know we just got the documentation. Okay, the rules are suspended with no objection, Kealoha, please. Councilmember Yukimura.

There being no objections, the rules were suspended.

Councilmember Yukimura: Thank you for being here. You have been before us on this program before.

LUDVINA K. TAKAHASHI, Executive on Aging: Yes.

Councilmember Yukimura: And the materials regarding the Scope of Services refer to Stanford Chronic Disease Self-Management Program ("CDSMP"), and/or the Diabetes Self-Management Program ("DSMP") and the EnhanceFitness program.

Ms. Takahashi: Yes.

Councilmember Yukimura: These are ongoing programs that this grant will help you to continue, is that right?

Ms. Takahashi: Yes.

Councilmember Yukimura: And they are evidence-based so that you are tracking what impacts it has on the health of the elderly who participate?

Ms. Takahashi: That is correct.

Councilmember Yukimura: Your findings are showing you generally what?

Ms. Takahashi: They are really positive in helping...especially the CDSMP program. We just started the DSMP program, and this is to help manage their diabetes. It has proven very effective for those who attend, and we like to really encourage those in the public to please if they have that condition, to please call us.

Councilmember Yukimura: What are some of the indicators that you use to measure that there are positive impacts? For example, in your diabetes, do you measure blood pressure or sugar levels and whether that goes down?

Ms. Takahashi: We do a pre-survey and then a post-test.

Councilmember Yukimura: I see.

Ms. Takahashi: They do the class upon recommendation from their doctors. We need their doctor's approval.

Councilmember Yukimura: Do you ask the doctors for their feedback?

Ms. Takahashi: I do not think we have.

Councilmember Yukimura: That might be something to look at.

Ms. Takahashi: Okay.

Councilmember Yukimura: Are these programs open to anybody who is interested or are they full?

Ms. Takahashi: The diabetes program is open for those who have diabetes or assisting their family member or spouse that have diabetes. So that is specific to that disease. For the chronic program, it is open for anybody sixty (60) and older.

Councilmember Yukimura: And then your EnhanceFitness is also open to anyone sixty (60) and older?

Ms. Takahashi: Yes.

Councilmember Yukimura: To all those millions that are watching, if anybody wants to participate they can contact your Office.

Ms. Takahashi: Yes.

Councilmember Yukimura: Do you want to give us the number?

Ms. Takahashi: 241-4470.

Councilmember Yukimura: 241-4470, if people sixty (60) and over want to participate in any of these programs?

Ms. Takahashi: Yes.

Councilmember Yukimura: Thank you very much.

Council Chair Rapozo: Thank you. Any other questions? My only question, Kealoha, your diabetes program is referral-based; basically the doctor's refer them to your program?

Ms. Takahashi: Not necessarily. We put articles in the newspaper. Anyone having diabetes may call our Office.

Councilmember Yukimura: Is there a match that the Office on Elderly Affairs (OEA) has to put forth in order to get this or is it just an outright grant?

Ms. Takahashi: It is an outright grant.

Councilmember Yukimura: Excellent. Thank you very much.

Council Chair Rapozo: Thank you, Kealoha. Any other public testimony?

There being no public testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? No?

The motion to approve C 2015-163 was then put, and unanimously carried.

C 2015-164 Communication (05/19/2015) from the Mayor, requesting Council approval to accept a donation of one (1) original 1959 signed Constitution of the State of Hawai'i from Lawrence Bowman and Family, valued at \$30,000, which will be displayed in the Office of the Mayor: Councilmember Kualii moved to approve C 2015-164 with a thank-you letter to follow, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Councilmember Yukimura.

Councilmember Yukimura: I just wanted to say this is a very generous gift and I think it is very appropriate that an original of the State Constitution would be placed in a government office. Many thanks to Mr. Bowman and his Family.

Council Chair Rapozo: I am hoping he has two (2) and he can put one in the Council building too. Any other discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no public testimony, the meeting was called back to order and proceeded as follows:

The motion to approve C 2015-164 with a thank-you letter to follow was then put, and unanimously carried.

C 2015-165 Communication (05/22/2015) from Hawai'i State Association of Counties (HSAC) President, transmitting for Council approval, the proposed Board of Directors for the 2015-2016 term, pursuant to Section 5, Section 5A and Section 5C of the Bylaws of the HSAC, Inc., which was approved at the May 22, 2015 HSAC Special Executive Committee Meeting:

1. NACo Board of Directors
 - KipuKai Kualii, Kaua'i County Council
 - J. Ikaika Anderson, Honolulu City Council
2. WIR Board of Directors
 - Mike White, Maui County Council
 - Danny Paleka, Hawai'i County Council

Councilmember Kagawa moved to approve C 2015-165, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Councilmember Kagawa.

Councilmember Kagawa: First, I would like to commend the process in which we have a County Councilmember representative from each island. I really commend that process that they have, because each island has a say nationally and is kept up to date. I would like to thank Councilmember Kualii'i because I know that he takes his job seriously as a Kaua'i NACo member and attends all of those functions and gathers what he can to help Kaua'i be successful in whatever is happening nationally. I am strongly in support of this. Thank you.

Council Chair Rapozo: Councilmember Kualii'i.

Councilmember Kualii'i: I just wanted to say that it is an honor to serve and I appreciate all your support and the support of the different counties throughout the State. I do want to mention that Maui Councilmember Riki Hokama is the National President of NACo. I would like to say briefly about NACo, here on their membership form it talks about, "Counties save time, staff, and dollars with the National Association of Counties (NACo) through its advocacy efforts, special programs, cost saving tools, research information, and much more." As our County grapples and all counties grapple with demands for services while relying on less revenue, NACo gives us the tools to be more efficient and effective. At the same time, NACo is our eyes and ears in Washington focusing on legislation that directly affects counties. I do want to put out there to the Administration as well that there is an incredible amount of resources at the NACo website, www.naco.org. Coming this summer, and it happens every summer is the national conference, which will be held in Charlotte, North Carolina, this year. It is four (4) days worth of...there are thousands of people there, hundreds of vendors, and incredible workshops and information. They have segments that even focus on a County Engineer piece, or the County Clerk, so there is something for everyone within the administration of counties. If more people could go, you could bring back many resources, but I will as I have before, bring back as many resources as I can and share it with everyone. Thank you for your support.

Council Chair Rapozo: Anyone else? To have one representative from each island is something new. Kaua'i was always honored to have two (2). One (1) for NACo and one (1) for WIR and the decision was made to restructure so that every island has a representative. NACo is like a multivitamin where you take the multivitamin every day, but you have no idea what each of those little components do for your body, and it is the same with NACo. They have a huge staff up in Washington D.C. and they are up there advocating for the counties throughout the Nation and we tend to take that for granted. Councilmember Kualii'i talked about the National Conference coming up and I challenge the Administration to please consider sending someone. I know we have had that discussion for several Mayors. It is a small price to pay to be in the center of the activity of what is going on in the Country. I cannot stress that enough. Then for our own staff as well, I had a discussion with Jade yesterday, our County Clerk, we just have to be more active with NACo. Everyone on this table leads a Committee of different responsibilities and the issues are being faced by other counties throughout the Country and what better way to network with counties. We talk about issues and possible solutions. Well, solutions are being done in other places and it is successful. The wonderful thing about being up with the national organization is that you do not have to send an E-mail; you do not have to speculate if something is working, you can go ask the person because they are there. You can ask the Councilmember, or the Mayor, because they are there. What better way to get a face-to-face recommendation on someone that is trying something that

could possibly help us? A message to our body here, it is in July, and it is not too late if you could please consider going over, and to the Administration, I think it is well worth the effort. To Councilmember Kualii who obviously I will be supporting, has done a fabulous job as a NACo representative in his prior time on the Council and in the current time. I can tell you in all honesty that in his absence from NACo as a board member, he was missed by the NACo organization. When I went up they would say, "What happened to that Hawaiian guy, I cannot pronounce his name, but what happened to him?" Just so that you folks understand, he is up there working hard for all of us, and I just want to thank him for that. With that, Councilmember Yukimura.

Councilmember Yukimura: I want to say that Kaua'i County recently and specifically the Council hosted the WIR of NACo just last month, and I want to thank the staff who did a fabulous job. I happened to attend one (1) of the workshops, which happened to be on medical marijuana dispensaries decriminalization and legalization and because it included states that have been going through the throws of dealing with this issue, there were some very competent staff people. It was a very well done workshop where we learned a lot. This is just an example of the workshops that were at that Conference that were very informative and did help in helping us understand the issues that we will be facing. *Mahalo* to the staff, Council Chair, and our representatives such as Councilmember Kualii, for keeping that liaison, that relationship and supporting the efforts.

Council Chair Rapozo: And I think you would agree that hearing it from commissioners or councilmembers from the States that are actually dealing with the issues live, it is much more impacting then reading an article or watching...I am sure you walked away just like me thinking, wow, we never thought of that part of it.

Councilmember Yukimura: Yes.

Council Chair Rapozo: That is the value of it. I hate to belabor the point, but I think it is that important. Further discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no public testimony, the meeting was called back to order and proceeded as follows:

The motion to approve C 2015-165 was then put, and unanimously carried.

LEGAL DOCUMENT:

C 2015-166 Communication (05/27/2015) from the Life's Choices Kaua'i Coordinator, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the Grove Farm Company, Inc., to conduct inspections, perform surveys, prepare studies, and to complete any other necessary tasks to accomplish compliance with State, County, and Federal rules and regulations prior to obtaining land use entitlements (the "assessment"), situated at Tax Map Key (TMK) No. (4) 3-8-002:001 (the "Grove Farm Lot"), and a Memorandum of Understanding for the dedication of approximately five (5) acres for a Treatment and Healing Services Center off Ma'alo Road *mauka* of Hanamā'ulu.

- Right-of-Entry Agreement
- Memorandum of Understanding

Councilmember Kagawa moved to approve C 2015-166, seconded by Councilmember Kualii.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I will be recusing myself from this issue because the Right-of-Entry and Memorandum of Understanding deal directly with Grove Farm.

(Councilmember Kaneshiro was noted as recused from this item.)

Council Chair Rapozo: Any further discussion? Councilmember Kagawa.

Councilmember Kagawa: I understand that Councilmember Kaneshiro is recusing himself, but what I do not agree with is that I believe that the decision will be made in the future regarding whether or not we are going to have a drug treatment facility, I believe, and that is not related to Grove Farm in any way. It is a larger issue that he should be voting on. We should not be in a position where we have six (6) members voting on such an important issue. I disagree that he needs to recuse himself because the larger issue is whether Councilmember Kaneshiro should be voting on whether Kaua'i deserves a drug treatment facility for our children, and that is the issue. I know he is recusing because of the direct relationship with the Grove Farm land that we are being asked to use for the Right-of-Entry, but I totally disagree that he should be recused on the larger scale issue.

Council Chair Rapozo: I tend to agree with Councilmember Kagawa, obviously for the public, the decision to recuse or not to recuse is the Member's decision. Members are free to request an opinion from the Ethics Commission to get a ruling, but in every case, the ultimate decision is up to the Member. This matter as I have read through these documents provide Grove Farm no direct benefit. In fact, they are dedicating lands to the County and there are no costs. It is not as if we are paying Grove Farm. I am not going to second guess Councilmember Kaneshiro's decision, I respect his decision, however like Councilmember Kagawa says, as we move forward, and I will be sending a communication over to Councilmember Kaneshiro to reconsider, that as we move forward in a bigger debate, I definitely would hope that he would consider staying on and voting. We do need the seven (7) members. That is just for the record based on the recusal. Councilmember Yukimura.

Councilmember Yukimura: The actual issues of conflict of interest is much more complicated than we can really discuss here today. For example, when Alexander & Baldwin (A&B) donated lands in 'Ele'ele for housing, one could argue that putting in infrastructure and housing close to their lands, where they want to eventually develop, actually could be a benefit to them. I just raise this as an example of how complex it gets and I think our Charter says that the Ethics Board is really the one that makes the decision, so if anyone questions Councilmember Kaneshiro's recusal, they should go to the Ethics Board for a complete review of the issues. I want to commend Councilmember Kaneshiro for being cautious and for respecting the spirit of the ethics ruling and law in our Charter.

Council Chair Rapozo: Thank you. Councilmember Hooser.

Councilmember Hooser: I also want to commend Councilmember Kaneshiro for taking the action and I want to point out that I also agree that in the broader discussion he should not be recused from supporting, exercising his support of a drug treatment facility. But what we have on the agenda today is a contract between his company and the County of Kaua'i and those contracts involve negotiating terms and there are benefits and protections that the County and the landowner go back and forth to negotiate. I think he is prudent in his actions and support the decision that he has made. Thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: I just want to add one (1) quick thing and I agree with Council Chair and Vice Chair's comments, and I would say that it is not a conflict alone just to be an employee of a company or a non-profit. When you read the law, the Ethics Code or what have you, it talks about being an owner of the company, CEO (Chief Executive Officer), or Executive Director of the non-profit or so, and being a Board President or on the Board. Just because you work somewhere and there is an issue that involves that company or organization, that in itself does not make for a conflict. I just wanted to put that forward.

Council Chair Rapozo: Thank you. We had...Councilmember Yukimura.

Councilmember Yukimura: I think Councilmember Kaneshiro is an officer of Grove Farm and I think that is a factor that the Ethics Board would look at, but I do not want to debate the issue on the floor...

Council Chair Rapozo: Yes, me either.

Councilmember Yukimura: ...because I believe it is something that the Ethics Board is really the proper forum...

Council Chair Rapozo: But I did want to recognize and have some discussion because it became an issue once he left. With that, any further discussion on the item on the agenda. Councilmember Hooser.

Councilmember Hooser: Are we going to be hearing public testimony now or should we have discussion...

Council Chair Rapozo: Yes, I want to have some discussion upfront and then we will open it up for public testimony and then we will bring it back to have further discussion.

Councilmember Hooser: Okay.

Councilmember Yukimura: I have a process question.

Council Chair Rapozo: Sure.

Councilmember Yukimura: I would at least like to have a presentation first so that everybody can hear.

Council Chair Rapozo: Well, that is going to happen, but I was just asking if there was any other discussion prior to suspending the rules while we are in session.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: If not, thank you very much. Good morning, Mayor, thank you for being here today.

There being no objections, the rules were suspended.

BERNARD P. CARVALHO, Mayor: Good morning.

THERESA C. KOKI, Life's Choices Kaua'i Coordinator: Good morning Council Chair Rapozo, and Councilmembers.

NADINE K. NAKAMURA, Managing Director: Good morning.

Ms. Koki: We are here today to discuss two (2) legal documents that the County would like to enter into an agreement for a Right-of-Entry, and a Memorandum of Understanding (MOU) to Grove Farm Company, Inc., at Ma'alo Road. The purpose is to further plan our adolescent treatment facility.

Ms. Nakamura: We are here to answer questions, and I believe the County Attorney who worked on these legal documents is on his way.

Council Chair Rapozo: I just want to remind members, today is phase 1, if you want to call it...or step one. It is getting a Right-of-Entry Agreement and an MOU to start the process. We are not approving funding today, and we are not approving the type of operation that is going to be run. It is simply the start of a process that hopefully will result in an adolescent treatment center. Councilmember Kagawa. Let us just limit it to questions because we will have the debate later.

Councilmember Kagawa: I try to always ask questions...try. I have had the privilege of meeting with you one on one and I am familiar with the location, so my question is, do you have a map that can be put up? The public does not have the chance to see the maps that we see in meetings, and I just wanted to be clear because we have had two (2) previous treatment centers that the location became a problem with communities, one was right by Isenberg Park, and the other one was by the Kaua'i Humane Society in Hanapēpē. I just wanted to make sure that the public sees where this location is and it is just clear on where things are going to be and we would be off to a better start. Can you also point out, and maybe you need Grove Farm to help you, but what portion is being voted on in this legal document today? What area do we need to access the site? Thank you.

IAN K. JUNG, Deputy County Attorney: Good morning Council Chair, and Members of the Council. I apologize for being a little late. I ran over here in my suit. We have two (2) legal documents before you and I think the site plan will identify the location. The two (2) documents that are before you, one (1) is a Right-of-Entry, which is a common document that you actually do see quite often. It basically allows the County to get on the property, do its necessary studies, and prep for an EA (Environmental Assessment) that will be for the overall project. The second document is an MOU to basically outline the protocols and procedures for acquisition of the property. In this case, it will be a donation from Grove Farm Company and if you

look, I have two (2) maps. The first one is basically the location map identifying where it is. Here we are looking greater Hanamā'ulu and then the reference here is Ma'alo Road. This is Ma'alo Road here. The proposed site is a five (5) acre site here and the distances we calculated to the two (2) nearest subdivisions here on Hanamā'ulu *mauka* is about point six, two, five (.625) miles or a thousand meters, and here it is point eight, five, four (.854) miles. So you can see the location if you are headed up to Kapaia and then headed up to Wailua Falls.

Council Chair Rapozo: Where is the road? Show us Kūhiō Highway that turns up at Kapaia, that turns up to Ma'alo Road.

Mr. Jung: Right here.

Council Chair Rapozo: Okay.

Mr. Jung: And then Ma'alo Road goes up here. Here is the cemetery that is on the right.

Council Chair Rapozo: Okay.

Mr. Jung: As you proceed further along, some of you may have seen the algae farm that has started here. It is adjacent across the road from the algae farm.

Council Chair Rapozo: That is the Kaua'i Island Utility Cooperative (KIUC) power plant right by the algae farm?

Mr. Jung: Yes, I think the power plant is up further.

Council Chair Rapozo: Okay.

Mr. Jung: I will put up the second map.

Councilmember Kagawa: I got a question on the first map.

Mr. Jung: Okay.

Councilmember Kagawa: There appears to be two (2) large residential subdivisions, which the arrows point to each one, so what subdivision is the top one, and what subdivision is the bottom arrow point to?

Mr. Jung: If you drive up the hill to Hanamā'ulu, right?

Councilmember Kagawa: Yes.

Mr. Jung: That is the subdivision up there.

Councilmember Kagawa: And then what is the other subdivision?

Mr. Jung: This is the hospital, and then Isenberg Tract.

Councilmember Kagawa: Thank you.

Mr. Jung: The second map will identify the actual parameter of the lot which you will see a little closer and then you can see the actual Ma'alo Road there and how close it is to the road. While she is getting the map ready, the identification of the lot will have to be subdivided, so we are going to have to create a new lot to facilitate the dedication. We cannot actually acquire just a portion of a lot unless we do a CPR (Condominium Property Regime) and the idea is to get site control so we are doing a subdivision to carve out this small piece here from the greater lot from Grove Farm, to the right of the map.

Councilmember Kagawa: And the red area is the five (5) acres, approximately?

Mr. Jung: Yes, approximately here. This is Ma'alo Road going northwest here and then back towards Hanamā'ulu, and then the portion would be here. You can see there is already the adjacent dirt road that runs east here and then would connect up to Ma'alo Road here. How we configure access, that is all going to be happening through the actual studies and engineering studies and the document that will be prepared, but these documents just get us to that point.

Councilmember Kagawa: Thank you. Good explanations.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Where is the landfill in relation to the proposed adolescent treatment center?

Mr. Jung: The landfill will be on State ADC land headed northeast. So if you follow...

Councilmember Yukimura: How far away?

Mr. Jung: I would guess probably about three quarters of a mile, because it is along Kalepa Ridge, in the back.

Councilmember Hooser: Is it on the map?

Mr. Jung: Not the defined area. We can try to get you the actual site plan map for the draft EIS for the landfill, if that is what you want.

Councilmember Yukimura: I just want to know the relationship and where it is on the map.

Mr. Jung: We did not actually capture that imagine here. If you are looking more northeast, it would be up here.

Councilmember Yukimura: About equal to...you know point six, two, five (.625) you said three quarter miles is point seven five (.75).

Mr. Jung: Right, so it would be going in this direction.

Councilmember Yukimura: And point eight four (.84)...so the distance is between the lengths of the two (2) arrows?

Mr. Jung: Yes, that is just the estimated guess.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: It is somewhat weird. It looks like the point six two five (.625) line is longer than the point eight five four (.854) line which is somewhat deceiving. I am not sure if that is just...

Mr. Jung: I did not actually prepared this map but...

Council Chair Rapozo: But the number is accurate.

Mr. Jung: Yes, it looks like it was done by GIS (geographical information system) so it was probably calculated.

Council Chair Rapozo: Yes, okay.

Mr. Jung: But there are some valleys and hills here that may increase the distance.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Can you give us an estimate on the roadway improvements described, are those interior roadway improvements only, or are they on the main road leading...? Is there a completely new road going up there?

Mr. Jung: The road is Ma'alo Road which is an approved road.

Councilmember Hooser: But the document refers to the County's responsibility to do road improvements.

Mr. Jung: Right, so the road improvements...we have to probably create a flag to enter into the property so it is going to be relatively short to get into the property.

Councilmember Hooser: It is strictly entering the property; it is not the main access road.

Mr. Jung: Correct. It would be improved into the portion of the lot and then continue on there.

Councilmember Hooser: At first reading the summary and the letter, it seems characterized as this will allow us to study the project, but then when you read the document, it is instructing the County to move forward with Grove Farm and subdivide the land. It is a lot more than just studying it, right, is that correct?

Mr. Jung: Yes, there are two (2) documents. The first one is the Right-of-Entry which allows us to physically get on to their property and that is why it is before you because we indemnify Grove Farm for any actions of consultants, sub-consultants, or any officers or agents. The second document is a little more detailed in terms of the protocols and process for getting the actual acquisition of the land. Basically, what it requires is us getting on to the property through the Right-of-Entry and then the next step is doing the proposed subdivision map and then applying for the subdivision before the Planning Commission, creating the

subdivision, and then once the subdivided lot is done, it would then get dedicated to the County. The process for the dedication through the donation would be coming obviously before this body once again to accept that dedication deed. The Council will have another whack at the project at that point.

Councilmember Hooser: To be clear the Administration has concluded that this is a site they want and we are moving forward with subdividing the property and taking it from Grove Farm. That is a decision that has been made.

Mr. Jung: Correct.

Councilmember Hooser: When I first looked at it, I was thinking that we were looking at our options and this was one (1) option so therefore, we need a Right-of-Entry to go check it out, but this commits the County to go into the subdivision process. My second point, there is a typographical error on page 2 and should be corrected. I believe it is a typographical error.

Mr. Jung: Page 2 of what document?

Councilmember Hooser: Of the Memorandum of Understanding (MOU), fourth line from the top, it states, "activates," and I believe it should say, "activities." "The County shall coordinate such activates with Grove Farm," and it should be activities. I know that is minor, but I thought I should point that out.

Mr. Jung: Maybe I was drafting this...my son always says, "Activate" when he does his sword. I might have gotten confused with that, but I always appreciate your grammatical changes, Councilmembers.

Councilmember Hooser: I had some other questions, but I will pass for now and let other Councilmember speak.

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: With this certainty about where the site will be, that will then trigger the EIS process and the architectural design.

Mr. Jung: The County is already engaged with consultants for the EIS, and most likely, it will be an EA because this is previously disturbed land. The EA process, the contractor is Belt Collins Hawai'i, LLC, and for the architectural design of the facility, the contractor is Marc Ventura.

Councilmember Yukimura: Yes, but you cannot really do an EA unless you have a site that you are going to do an EA on, right?

Mr. Jung: That is correct.

Councilmember Yukimura: So the certainty of the site is what enables the EA to be started and be done.

Mr. Jung: True.

Councilmember Yukimura: How much is that costing us?

Ms. Koki: I believe the environmental assessment with Belt Collins, LLC, the contract was two hundred and twenty thousand dollars (\$220,000). Marc Ventura, the architect's contract, was two hundred and thirty thousand dollars (\$230,000), and we had the previous contract, the feasibility consultants' contract was fifty thousand dollars (\$50,000). Five hundred thousand dollars (\$500,000) was approved for this project. I believe two (2) fiscal year's ago through the CIP (Capital Improvement Projects) budget.

Councilmember Yukimura: But partly because we were concerned that the feasibility study said that, it is not feasible without an assured source of funding for operations. We asked the Administration not to proceed with this project until those parameters were determined, so my question is, have we solved the problem of providing operational moneys for this project, because the feasibility study says that we need about one point two million dollars (\$1,200,000) a year to operate it. Without funding for beds from the Department of Health, which administers the federal moneys for operations and facilities like this, we would not have a feasible project. The question is, do we have commitment from the Department of Health for funding of this project?

Ms. Koki: I believe in our previous meetings with you, that we had individually, you were submitted a document of the nine (9) recommendations from the feasibility consultants.

Councilmember Yukimura: Yes.

Ms. Koki: And we did cite the procurement law that we cannot really enter into a contract with the Department of Health for bed space because we have no facility to enter into a contract for.

Councilmember Yukimura: No, that is completely understandable, but you do not have to enter into a contract, you do have to get from the Department of Health some assurance that they have some money to do it. We are not asking for a contract at this point. It would be inappropriate to try to get a contract at this point, but you have to get some assurance of funds because otherwise, you build it and you cannot operate it.

Ms. Koki: We had a discussion with the Department of Health, Child and Adolescent Mental Health Division, and they did recommend that we could also go to the Alcohol and Drug Abuse Division for treatment funds. Again, in the document that we passed out to you, we did state that we were going to continue our meetings with the Department of Health and we are going to meet with both entities to further discuss our plans. There will be a future RFI (Request for Information) from the Alcohol and Drug Abuse Division with the State on our treatment needs for the entire State. I believe they are coming next fiscal year to have some discussions with us on what our treatment needs are because they have not been here for more than five (5) years.

Councilmember Yukimura: I have not heard that there is actual money on an ongoing basis that is year after year like there are these bed moneys from the State Department of Health. In fact, there does not seem to be any assured stream of funding for an operation like this. Dr. Shimabukuro of the Department of Health has said that if the State were to commit funding to Kaua'i County, that they would not be able to adequately fund the facility like the Bobby Benson Center (BBC) which is ongoing.

Ms. Nakamura: I would like to follow-up on Theresa's comments, which are all on point, and we wanted to also say that, yes, you are correct, the feasibility study raises unique concerns about the sources of funding to operate this on an annual basis, sustainably. Up to that point, we did not have a site to really make the case, talk to the people who we need to talk to regarding securing the funding. If this Right-of-Entry and MOU goes through, then we will have a site that we can say that we are committed to moving here, we have funds to do the design work, permitting, environmental assessment, and we are concerned and we would like to get some intent to fund. Now, Dr. Shimabukuro at the Department of Health represents one (1) stakeholder and potential source of funding in the State of Hawai'i, and he is working with a limited pot of funds. The other alternative raised in the feasibility study is to look at whether there are any other providers who now receive bed funding from the State of Hawai'i to see if they may have something that they could throw this way.

Councilmember Yukimura: Are there other funders who have...

Ms. Nakamura: That is what we need to explore, and that is what we need to secure in anticipation of having this site. The other...

Councilmember Yukimura: So the...

Council Chair Rapozo: Hang on, Councilmember Yukimura, let her answer.

Ms. Nakamura: And then the other piece is to go back to see if that pie can be made bigger by our State Legislators and the State government.

Councilmember Yukimura: The State does not have any money even for existing services.

Council Chair Rapozo: Councilmember Yukimura, she is saying what their plan is, please do not debate their plan. That is their plan and whether you disagree or agree, we do not know if the State does not have money for this. We do not know that.

Councilmember Yukimura: Excuse me; I am entitled to express my opinion about...

Council Chair Rapozo: You can do that when we get into discussion, but let her answer the question, and then do not debate her, just move on to your next question because you are asking a question, you do not like her answer, I am sorry, go to the next question. If you disagree, you disagree.

Councilmember Yukimura: What State funds are there available for this kind of project.

Ms. Nakamura: That is what we want to further explore to see. Right now, it is a limited pot of funds; they are targeted and committed to other operations, so that is the conversation that we need to have.

Councilmember Yukimura: And so you are saying that we should go ahead and spend five hundred thousand dollars (\$500,000) for an environmental assessment, and architectural services before we even know that we are going to be

able to fund the operations of an adolescent drug treatment center. What if we find out that there are no funds? We are going to be out half a million dollars (\$500,000).

Ms. Nakamura: We are going to be working with the Blue Ribbon Committee to do some of this upfront work to get some assurances. Without a site, it is just a basic concept, but now that we have a site, we can have more detailed discussions about the possibilities and to get commitments from the different partners who really believe that there is a need on this island.

Councilmember Yukimura: If there is that kind of commitment, they should be stepping forward now before we start doing design and an EA because if there is not the moneys and this issue has been ongoing for two (2) years at least, maybe three (3) years. We have asked that question, in fact Councilmember Nakamura at that time, was asking those questions too. It has been three (3) years that has passed...

Councilmember Kagawa: Point of Order. Is there a question?

Councilmember Yukimura: ...and there has been no commitments forthcoming.

Ms. Nakamura: And we had not had a site in the past three (3) years.

Councilmember Yukimura: I do not agree that you need a site.

Council Chair Rapozo: Okay, hang on. Councilmember Kagawa, you had a question.

Councilmember Kagawa: I have a question. Does all the other islands have an adolescent youth drug treatment center?

Ms. Koki: For the adolescents, there is only two (2) on O'ahu. One is a certified treatment facility for both boys and girls, which is the Bobby Benson Center, and there is also the Marimed Foundation that is an at-risk youth program on the ocean which is called the Kailana Program, only for boys. They take any children. It does not have to be drug substance abuse, but they do have a counselor at their facility as well.

Councilmember Kagawa: What about the Big Island?

Ms. Koki: The Big Island has the Big Island Substance Abuse Council (BISAC), they have treatment facilities for adults, however as the adults are in their recovery process, their family can join them. They face all of their triggers, being parents, and all of these things...so; they do have housing for the families.

Councilmember Kagawa: I recall one called Acadia. Is that on the Big Island?

Ms. Koki: Yes, Acadia used to be on the Big Island, but they closed their doors.

Councilmember Kagawa: Yes, because I remember some students from Kaua'i that used to go there and they would get high school education credits and they would get the treatment.

Ms. Koki: Yes.

Councilmember Kagawa: I thought that if we were shipping our kids from Kaua'i then there must be a need and a value, right? What about Maui?

Ms. Koki: Maui used to have Maui Youth and Family Services. I believe they still have Maui Farms and I cannot recall the name right now...

Councilmember Kagawa: But it is a residential youth...

Ms. Koki: It is a therapeutic home.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I will speak for myself, but I think I speak for everybody, I recognize clearly that there is a great need for drug treatment for adults and adolescents. In our community, it is a big issue and we are all trying to move forward with helping to resolve that, and so I appreciate the work you are doing on this.

Ms. Koki: Thank you.

Councilmember Hooser: But we have a responsibility to make sure it is done in a fiscally responsible manner and we do not rush forward, and that is the reason for these questions. I think I want to help you out a little bit here too. In looking at the MOU, I do not see anywhere where it would say residential treatment center. It does not say residential treatment center. It says many other things. Item number 2.58 says the County agrees the subject property shall be utilized in perpetuity solely for an adult and adolescent health care use. I would think that gives the County some latitude. If for example the County was not able to fund an in-house residential treatment facility that property could be used for other outpatient services or other treatment facilities...say, "Thank you for helping me out, Councilmember Hooser."

Mr. Jung: Councilmember Hooser, that was exactly the point of putting that specific term in there because for whatever reason we want to keep it as broad as can be because Grove Farm wanted to have a reversionary clause which means if the use is not used in that particular fashion, then they can come back and take the land back. We wanted to narrow it to health care, but keep it broad in the sense of that health care is to cover a multitude of issues that could be related to both adolescent and adult health care issues. You noticed the same issue that we noticed.

Councilmember Hooser: Okay, I wanted to point that out. The land, I assume, is zoned agriculture.

Mr. Jung: Yes.

Councilmember Hooser: And so there would be a use permit.

Mr. Jung: It is State Land Use Agricultural and County Agriculture with a little portion that is in open.

Councilmember Hooser: What is the recent history, our existing use?

Mr. Jung: The existing use now is fallow from what I can tell from the aerial maps. The permitting process would entail a subdivision, which is five (5) acres, so it meets the minimum lot standard in agriculture subdivision, and then for the actual use, it would be a County use permit as well as the State Special Permit. The State Special Permit process and that process allows us to go outside the four (4) corners of permitted uses on agriculture and to allow unusual but reasonable use on agriculture.

Councilmember Hooser: And this would not allow the so-called remnant parcel remaining to having any additional use.

Mr. Jung: The remnant piece would be carved out and then you will see that it is an exception from a one-time subdivision restriction, because our code allows for government sponsored subdivisions or government use to be an exemption from the one-time subdivision restriction.

Councilmember Hooser: It would stay agricultural.

Mr. Jung: It would stay in agriculture. If they wanted to take it out of agriculture, State Land Use agriculture, they would have to redistrict and rezone which would be a lengthy process.

Councilmember Hooser: The road leading from Hanamā‘ulu, who owns that road?

Mr. Jung: From Hanamā‘ulu to Ma‘alo – it is a County road.

Councilmember Hooser: A County road, okay. The Right-of-Entry Agreement says that we cannot do soil sampling without special permission, is there a reason for that?

Mr. Jung: The problem is sometimes you would have brown field sites potentially, where the soil is contaminated.

Councilmember Hooser: I would think we would want to know that, yes.

Mr. Jung: Right, so we will...and this is going to be worked through our consultants through the environmental process and in the environmental process, they will look at that. They just want permission as to where. The thing is, it is their land and so we will have to get permission for pretty much anything we want to do out there and this is a part of that permission.

Councilmember Hooser: Okay, that is all for now.

Council Chair Rapozo:

Thank you. Councilmember Chock.

Councilmember Chock: Thank you for your presentation. I too am supportive of the direction that you folks are going in. My question or my request will be that we are provided with a little more of a budgetary plan. I think that while this is not the actual item, it really helps us to move in the direction of feeling comfortable as you are in where you are headed. Along those lines, what is plan "B?" If we are investing five hundred thousand dollars (\$500,000), if it does not go through, what are we going to do with this site? I think we need to be that responsible with this money in order to say, "If it is not going to happen, then what are we going to do with it?" Those kinds of things would be helpful upfront, and I would like to request that we could just have that.

Ms. Nakamura: We will commit to doing that. I think we also believe that we need to do an updated financial plan to show alternatives, if it is public/private pay, we need to look at what are the assumptions given different built out scenarios.

Council Chair Rapozo: Any further questions pertaining to the agreements? Councilmember Kualii'i.

Councilmember Kualii'i: There has been a lot of comments about it not working out, but in fact we will commit to making it work because the need is so great, is that not true?

Ms. Nakamura: Yes, this is something very important to Mayor Carvalho, to members of this community, everyone on the Blue Ribbon Panel who have been working on this and have been guiding this process and who have spent a lot of time talking about the need and how to get from where we are to where we need to be. There is a lot of commitment behind it and we do need to do as what Councilmember Yukimura and Councilmember Chock was saying, we need to make sure that it can be a self-sustaining operation. We are committed to getting those numbers and making sure for ourselves that we will not have to rely on...I think that is the issue...is relying on County government operations over the long run.

Councilmember Kualii'i: It is a modest facility with ten to twelve (10 - 12) beds which is initially planned and the need is...I mean you will probably have a waiting list. I know that I have had family members that have needed those types of services and for some of them it worked best because they left the island, so they may have gone to a center in O'ahu or Maui, even if we did not have enough people on Kaua'i, which I do not believe is true to utilize and fill the facility, we could also be serving the rest of the State because some people will need or want to get away from the triggers of their home community, if you will. The need is definitely there and great. As far as funding, it ultimately comes down to...and I appreciate the Mayor taking the lead and saying that it is that important. We just came through the ending of the budget process, so in the end, how important is it? If we do not have the political will to back it up saying if nobody else will fund it, we will, then how could we go out asking other people to fund it as if it is not that important to us? In the end, it is about political will and making the tough decisions and having the community support and knowing that people pay taxes for a reason, so that their community is a safe and good place. This is a public good and it is long, long overdue and we all need it. Keep doing what you are doing.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: You said that you are committed to an updated financial plan, is there an existing financial plan?

Ms. Nakamura: There is the financial feasibility study that was completed by the Sparks.

Councilmember Yukimura: Well Dr. Sparks said this is what is needed. The financial plan will show where the money will come from. Do you have such a plan?

Ms. Nakamura: No, we do not. Not at this time.

Councilmember Yukimura: Okay, so you are not talking about an updated financial plan, you are talking about a financial plan period. You do not have one, and you are committed to providing one. When will you have that plan available?

Ms. Koki: We will probably have some better idea after we go back with the Department of Health and continue our discussions. The point that I want to just make here about the money, the feasibility consultants', by the way she is not a doctor, her name is Norma Doctor Sparks, Attorney. "Doctor" is her maiden name.

Councilmember Yukimura: I understand.

Ms. Koki: The consultants found this pot from Child and Adolescent Mental Health Division (CAMHD) and that is what they focused on, but there is private pay insurance, other moneys that we can look at, and for us to, again, go back to the agenda topic accepting this property, with the funds to further our studies that has already been approved two (2) budget cycles ago, we need to get that in-hand before we procure any services, and go out for an RFP (Request for Proposal). The vendor themselves, we had a couple that are self-sustaining. We have for profit organizations, not for profit organizations that want to come here and open up a center that has a track record of operating their center that is not even asking us for funding.

Councilmember Yukimura: Well, we would like to see that information, please, if that is the case then that should be part of your financial plan that you present to us.

Ms. Koki: Yes, that is why we went out for the RFI so we could have some solid plan to give to you. I want to...

Councilmember Yukimura: Where is that information? We as the decision makers need to see that information because an RFI does not bind anybody to anything. They could be making claims that they cannot actually back up when it comes down to it. Look at all the centers that have closed down on Maui and Big Island. They have bigger populations than we do. I want this thing to happen, but I do not want to open it and then close it in one (1) or two (2) years, which is what has happened on the other islands. That is why we need a sustainable source of funding. Where is that? I have seen nothing yet.

Ms. Nakamura: Councilmember Yukimura, I think I just said that we are going to be working on it, and we will hopefully have a product by the end of September.

Ms. Koki: I just want to...

Councilmember Yukimura: Of this year?

Ms. Koki: I just want to add about the Dr. Shimabukuro discussion that I was present at, he said and I have it in my notes, the child and adolescent mental health unit currently pays for bed space at existing facilities for Kaua'i adolescent and opening up ten (10) more beds on Kaua'i might not be possible with their funds. However, if we transfer the eight (8) beds back to Kaua'I, it can be possible. The contracts are now secured until 2018. Until that date, we cannot enter into any agreement with anyone especially if there is no facility to enter into an agreement for. He then suggested, Keith, the Deputy Director of Health suggested that we go to the Alcohol and Drug Abuse Division who I mentioned earlier and said that they are coming down for an RFI to look at our needs to see if they could fund us and also that would probably be an increase to the budget that we have to have the legislation for. Dr. Shimabukuro, himself, commended the Mayor and said normally this is only left to the State, I cannot make any promises however telling parents of Kaua'i that your youth still have to continue to go to O'ahu for treatment, if you have a facility here would be very hard for them. That was the meeting that I was present at with Dr. Shimabukuro. Later on, a couple months after he arranged a meeting for us to go to the Alcohol and Drug Abuse Division, we met with Nancy Haag, Nadine was our Managing Director. She had various other sources of recommendations for funds. She, herself worked in programs like Alaska, Virgin Islands, and talked about a family wellness warrior's initiative and also Keith Yamamoto suggested that we have other treatment focused on that same project, which is outpatient as well as day treatment, and after care. Therefore, you will have a whole continuum, a wraparound service for the youth like a one-stop shop.

Councilmember Yukimura: All my understanding about outpatient care is that it has to be close to bus stops, and to places where people can come to easily.

Council Chair Rapozo: Councilmember Yukimura, hang on.

Councilmember Yukimura: Yes.

Council Chair Rapozo: Do you have a question? We are not talking about how...

Councilmember Yukimura: I am about to ask a question.

Council Chair Rapozo: We are not talking about outpatient services.

Councilmember Yukimura: Yes, she just mentioned...

Council Chair Rapozo: I understand what she said. She is talking about a meeting that they had. Just focus the question on the agreements.

Councilmember Yukimura: Excuse me, Chair, but Theresa Koki's answer to my question was, "We are going to make it not just an adolescent drug treatment center, but we are going to have outpatient services there." I am just questioning

whether that answer is practical. If you talk to all the service providers like Hale 'Opio and others like Child and Family Services, it has to be places where families can come to easily and to be up there where there is no bus service is extremely difficult. It is not feasible.

Council Chair Rapozo: Is there a question in that, Councilmember Yukimura?

Councilmember Yukimura: Yes. How can you fund it without doing outpatient services? And if you say that there are sources, could you please put that in writing? How much is it likely to come out to and show us that there is a recurring revenue source and not a one-time legislative capital improvement money. It is actually operating moneys.

Ms. Nakamura: That will all be included in the financial plan.

Council Chair Rapozo: The answer is, "We do not know right now." We do not know.

Councilmember Yukimura: Well then, it is ready, fire, aim because we need to know all of this before we get a site and start to design a project. Let me ask you another question. You are proposing a mixed gendered facility, which is against the recommendation of the feasibility study. Do you know how much more it will cost to do a mixed gender, both in construction and operation? It was Dr. Shimabukuro, himself, who told me that you will need double the staff which means double the cost, from the feasibility study, and we cannot even figure out how we are going to pay for it with the existing feasibility study projections.

Ms. Nakamura: Again, that will be part of the financial feasibility study or financial plan.

Councilmember Yukimura: It is incredible to me that you do not have that information now.

Ms. Koki: We have some information that we extracted from the RFI. Again, people that bid for the center in the request for information, one of them was self-sustaining, and the other one did not ask us for any funding or contracts from the Alcohol and Drug Abuse Division. Some of these places are where our doctors and treatment professionals send the children to so that they have a relationship with them and they are willing to come and expand their services for the kids on Kaua'i. They already come with capital.

Councilmember Yukimura: Could you please make that information available to us whom you are asking to make a decision about five hundred thousand dollars (\$500,000) in taxpayer money.

Council Chair Rapozo: We are not making the decision on...

Ms. Koki: I believe the decision was made...

Councilmember Yukimura: No, but the decision to allow the site or to identify the site is what is going to move to have the expenditure of five hundred thousand dollars (\$500,000)...

Council Chair Rapozo: No, Councilmember Yukimura, the five hundred thousand dollars (\$500,000) has been approved.

Councilmember Yukimura: I know, but it has not been expended.

Council Chair Rapozo: It is done, we are not voting on that today. We do not have a call on that.

Councilmember Yukimura: We do by...

Council Chair Rapozo: No, we do not.

Councilmember Yukimura: ...by approving the site.

Council Chair Rapozo: Well you can go ahead and vote no.
Councilmember Kagawa.

Councilmember Kagawa: I am really getting frustrated and finding it...

Council Chair Rapozo: So am I.

Councilmember Kagawa: ...unfair to go after this facility; want all the answers, when nationwide we are having problems with the medical field, statewide. We had Maui hospital going under; the State had to bail them out again this year. We have KVMH (Kaua'i Veterans Memorial Hospital) struggling, and the State had to bail them out last year.

Council Chair Rapozo: Let us shut them down.

Councilmember Kagawa: No, but it is a nationwide/statewide problem health care, how do they be profitable sustainable, and it is not that easy. It is failing Statewide/Nationwide. This is whether at this point you want to support it on Kaua'i or not. We are not going to get all the positive answers and it is going to be effectual, like I said, Maui almost shut down this year, KVMH almost shut down last year if the State did not bail them out. Everybody is struggling right now in the health industry.

Councilmember Yukimura: Are these questions?

Council Chair Rapozo: He is heading for it.

Councilmember Kagawa: I am trying to say let us be realistic in asking questions.

Councilmember Yukimura: I am being very realistic.

Councilmember Kagawa: It is not realistic.

Council Chair Rapozo: Hang on. Let us ask the question as it relates to the agenda item. I have been very flexible because I think it is important. I believe Councilmember Hooser brought up some good points about the extent of the MOU or MOA that does require the County to do certain things. I have allowed the questions to go beyond just the agreements, but when we are getting into these issues of...and this is a warning, when you get into the issues of how are you going to run it, how

much is it going to cost, I am not going to entertain those questions today. The Administration has said probably eight (8) times that I jotted down that you said it will be coming up in the money study, the financial report. I am not going to entertain no more questions about costs, because they have already answered that they do not have the answers. If that is not good enough for Councilmembers, vote no, but do not humiliate and intimidate these three (3) people because they do not have the answers. They are here to get a Right-of-Entry and an MOU so we can start that process. The five hundred thousand dollars (\$500,000) that you talk about Councilmember Yukimura had been approved two (2) Council's ago, three (3) years ago. The reason why the thing is not built is because we keep trying to find reasons why we cannot make it happen rather than...

Councilmember Yukimura: Council Chair, that is not true.

Council Chair Rapozo: ...look at why we can make it happen. So, questions about the agreements. Councilmember Yukimura.

Councilmember Yukimura: I would like to get copies of the information that you have and said it is available, but we have not seen.

Council Chair Rapozo: That will be sent over in writing.

Councilmember Yukimura: I would like that...

Council Chair Rapozo: That will be sent over...staff, make a note.

Councilmember Yukimura: I want to ask because there was some question about making the RFI information public or at least available to Councilmembers and I want some assurance that we actually can see the information.

Ms. Koki: Now that we have completed all of our review, we will be sending it over from our Procurement Office.

Councilmember Yukimura: Thank you very much.

Mr. Jung: It is a public document. A request for proposals is a little different where you have to wait until it is awarded before it is revealed, which I E-mailed you this morning about.

Council Chair Rapozo: We will be sending over a written request, a formal request, and we will appreciate a very quick response. Thank you. Any other questions for the Administration?

Councilmember Yukimura: Yes, I have one more question. The RFI can be made available as soon as the information comes in?

Mr. Jung: It has to be reviewed to make sure there is no proprietary or trademark issues that may relate to any particular service provider. Once that evaluation is done, then it can be made available.

Councilmember Yukimura: Okay.

Mr. Jung:
from what I understand.

And in this particular case, there are none

Councilmember Yukimura: With the breadth of the scope of the agreement that is before us, does this mean that we might not have an adolescent drug treatment facility, but we might have something like an outpatient facility instead, if we find that an adolescent drug treatment facility is not feasible?

Mr. Jung: As Councilmember Hooser brought up, we wanted to keep it as broad as possible and remember Grove Farm is donating this land to the County. We were at a negotiating position where we said, well we should keep contingencies in place because they want to make sure that we are not going to take the land and do something completely different than what we are proposing to do. The goal is an adolescent drug treatment facility, but the idea is we can also utilize the facility for whatever reason for other health care related issues. I think that what comes along with drug treatment is education of parents as well, so there could be a component that goes to adults, and how that interplays in the future will obviously be detailed by whomever is the service provider at that point. The idea is to keep it broad so we can cover pretty much any type of health care service that may be anticipated with the facility.

Councilmember Yukimura: Okay, my question is, have we identified an ongoing source of funding either through the RFI or...

Council Chair Rapozo: Councilmember Yukimura, you asked that question already. They have answered that question three (3) times.

Councilmember Yukimura: No.

Council Chair Rapozo: Yes, they have.

Councilmember Yukimura: The answer is no.

Council Chair Rapozo: That is the answer. They do not have that information right now.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Next question.

Councilmember Yukimura: In your Blue Ribbon Panel responses, the first recommendation is that the County of Kaua'i should help to facilitate the integration and coordination of all services for Kaua'i adolescents. A continuum of care established by integrated and coordinated service must be established before an adolescent substance abuse treatment facility can be effective. This apparently is something that the Blue Ribbon Panel agrees with because you do not say that they disagree with it, is that correct? Okay. This continuum of care is from the whole spectrum of prevention to treatment, is that correct? Okay. I asked if you could depict the continuum of care of services and do you have that right now?

Ms. Koki: We have in our pervious drug plan a continuum of care in the back. A lot of agencies...we need to be added on to there so we can...however individual therapeutic agencies, they have their own continuum of

people that they call to give wraparound services for their youth, but without residential treatment and a few other things, we do not have the whole continuum.

Councilmember Yukimura: Are you saying that this continuum of care is only as to drugs and not adolescent services?

Ms. Koki: No, it is to substance abuse and all of its negative consequences.

Councilmember Yukimura: So it is about substance abuse, not about mental health, or not about juvenile delinquency, none of those.

Ms. Koki: No, it is about mental health as well. It depends after the child gets an assessment, what kinds of services he needs, those are the kind of services.

Councilmember Yukimura: I asked for a chart that shows this kind of continuum of services. If you are going to integrate it and coordinate it, you certainly must know what services you are coordinating and integrating, do you have such a list?

Ms. Koki: We have two (2) things. One is a resource guide that we pass out to all of our prevention providers to give to the families, and then we also have...we use that same brochure for our inmates as they come out and as they go in to give to the families where they can get all these resources. We again, like I mentioned in the drug plan, the one that is expired, we have a continuum of care there with all the agencies, with DOE (Department of Education) for prevention programs, treatment programs, recovery programs, and as I stated we need to update that.

Councilmember Yukimura: And this is supposed to be done before establishing an adolescent substance abuse treatment center that is effective, so you are planning to do that by when?

Ms. Koki: I do not have a definite date right now. I am currently the only individual in the Life Choice's Office. We are updating our drug plan, which has that as one of our goals.

Councilmember Yukimura: But you have no deadline for yourself?

Ms. Koki: We are not even finished with the drug plan yet so as we move forward we will put specific dates on it.

Councilmember Yukimura: And this may come after you build the adolescent substance abuse treatment facility?

Ms. Koki: No, hopefully before.

Ms. Nakamura: Councilmember Yukimura, can I just suggest that the question come over and we will present a chart to you of the continuum care services.

Councilmember Yukimura: And how you are going to coordinate that?

Ms. Nakamura: Yes.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: I have a question. You talk about your drug plan, and it has not been updated, why? Is it because we cut the funding?

Ms. Koki: You guys cut the funding that we asked for...

Council Chair Rapozo: Embarrassingly so.

Ms. Koki: ...two (2) fiscal year's ago, because you felt that we did not need to update our drug plan because we did not, and it was a rightful question. We did not do the progress notes, the updates, and everything like that.

Council Chair Rapozo: Right.

Ms. Koki: Again, I am the only individual in the Life Choice's Office.

Council Chair Rapozo: I know.

Ms. Koki: With my volunteers that came here today, I do the best that I can with them.

Council Chair Rapozo: We appreciate the work that you do.

Ms. Koki: Thank you.

Council Chair Rapozo: The other question is, forget about funders...how much does a facility like this cost?

Ms. Koki: To operate or to build?

Council Chair Rapozo: Not to build. To operate.

Ms. Koki: Probably one point three million dollars (\$1,300,000).

Council Chair Rapozo: A year?

Ms. Koki: Yes, and incarceration costs later on in life costs more than that.

Council Chair Rapozo: Did we do a feasibility study on the cost if we do not build one? I mean I see many people in the audience here that will probably answer...we will hear from them soon and I cannot wait. One point two million dollars (\$1,200,000), that is what we are talking about? Thank you. Councilmember Yukimura.

Councilmember Yukimura: That is for a one-gender facility only, right?

Ms. Koki: No, that response was...one point three million dollars (\$1,300,000), I am sorry Council Chair Rapozo.

- Council Chair Rapozo: Get your numbers accurate, okay.
- Councilmember Kualii: She said one point three...you said it wrong...
- Council Chair Rapozo: Oh, I said it wrong. Councilmember Kualii said you did say one point three million dollars (\$1,300,000)...I am deaf in my left ear and hard of hearing on my right.
- Councilmember Yukimura: So, Bobby Benson has boys and girls.
- Ms. Koki: Correct.
- Councilmember Yukimura: And they operate at one point three million dollars (\$1,300,000)?
- Ms. Koki: Yes.
- Councilmember Yukimura: And our feasibility studies show that it was one million dollars (\$1,000,000) for just a single gender operation?
- Ms. Koki: I cannot recall the exact figure.
- Councilmember Yukimura: Well...
- Council Chair Rapozo: So it is safe to say between one point one million dollars (\$1,100,000) and...
- Ms. Koki: One point five million dollars (\$1,500,000). By the time we open it up, it might be more.
- Council Chair Rapozo: Let us just say two million dollars (\$2,000,000), how is that?
- Ms. Koki: Sounds good.
- Council Chair Rapozo: Let us just say two million dollars (\$2,000,000) a year. Let me cross that out, and put two million dollars (\$2,000,000) a year. Thank you. That is going to be important later. Anyone else with questions? I really want to get to the public testimony, and we have to take a caption break in forty (40) minutes. Do you have a question? Do not leave. Do you have a question?
- Ms. Nakamura: I just wanted to thank you for your comments, and questions. We did want to acknowledge Grove Farm for their leadership for working with the County, for coming up with these agreements. It has been a lot of back and forth and I also want to thank Deputy County Attorney, Ian Jung, for being the lead negotiator with the County to get us to this point. This is really about being a leader in the State, acknowledging the need in the community, and taking this step so that we can do the thorough work that is needed. We really want to thank Grove Farm for stepping up and showing their commitment to this process as well.
- Council Chair Rapozo: Thank you. I would agree.

Ms. Koki: I want to also add that we want to thank all of you for working with us all these years. With your support, I believe that we can do this. I also want to extend my...for the record...my public thank you to the Hanamā'ulu community who has welcomed us to come, with open arms.

Council Chair Rapozo: You know this can be a very emotional topic and I sense that from you, and I am feeling it, and I do not want to cry right now, but I was there when we did...with the late Mayor Bryan Baptiste on the first committee they did the initial drug plan. We talked about all these possibilities and I am actually kind of shock that it has not been done yet. It all starts with the decision to get it done and then we get it done. Councilmember Kualī'i, in his comments, I think he stole my notes because he said exactly what I had written, but...yes, we think alike because we know. We know why we need this and we just appreciate that. Thank you very much. We are going to open it up to the testimony. Did we get signed up speakers?

LANI NAGAO: I am speaking for Dr. Gerald Mckenna who runs the Mckenna Recovery Center. We treat adolescents and adults in this community as well in Honolulu and in Hilo. We also run outpatient treatment clinics. One, he asks Mr. Ventura to donate his services, find someone who is concerned about their...enough to donate their home or better two (2) homes and we have the space already donated. Find plumbers, electricians, masons, builders to donate their time. We will provide the materials, they can construct it. One prior to 'Iniki we had a functioning residential adolescent treatment program in Kapa'a on this island. The Director was (inaudible) Gonsalves, how was that funded at that time? Two, (inaudible) are always subject to the (inaudible) of the economy. Number three, this is a Kaua'i project. It is my strong belief that we can get many of the services to build this facility donated by the citizens. If we want it then we should build it or it should operate as a privately funded addiction treatment program. Almost everyone in the State has private insurance, either commercial or Quest insurance. State law mandates thirty (30) days of residential treatment with no limit on adolescents if medical necessity can be shown. Five, ask people to step up. Please, our own community donate your home, we will move it, and name it after you, maybe. Number six, I, Dr. Mckenna, will agree to act as medical director free of charge for the first six (6) months to get this going if I am still alive when it opens. That is what he wanted to share. Can I have the end of his time, and do some on my own time?

Council Chair Rapozo: Go ahead; your light is still on.

Ms. Nagao: I heard today, former Mayor Yukimura say at this setting that she wants it to happen as well, and I am grateful to hear that. We understand the responsibility that she feels to our community to be financially responsible to our citizens and taxpayers. We are of the same mind. We are a private center and we do not receive grant funds but...

Council Chair Rapozo: I am going to have to stop you there, but you can come back for your second three (3) minutes.

Ms. Nagao: Thank you.

Council Chair Rapozo: Councilmember Kagawa, and then Councilmember Chock.

Councilmember Kagawa: Because you work with Dr. McKenna, I am wondering if you can answer this. Is he in favor of this land agreement?

Ms. Nagao: I am sorry, yes. He wanted to encourage all of you to accept the motion before you.

Councilmember Kagawa: My understanding from the testimony is that, "let us get everything donated," so I am thinking this is not...the Right-of-Entry is being donated, but at some point the County, if we do not get the donations, we are probably going to end up doing it with taxpayer money or lobbying for State money. I am wondering at that point is he still for it or is he saying that we should only do it if we get everything donated?

Ms. Nagao: We would have to ask him, but I feel strongly that he supports the facility because there is a need for it. We would love to get whatever we can donated because of course we do not want to burden the taxpayers.

Councilmember Kagawa: He makes it seem like it is easy to get those big donations and it is really not. It is really not that easy to get a house donated or all the materials donated.

Ms. Nagao: I believe he knows that we have to purchase things but the people will also come forward. We know there is a community of people who will donate their expert services and he is willing to donate his professional services.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Thank you. He was here earlier, right? Did I not see him here earlier?

Ms. Nagao: He had to catch a plane to Honolulu.

Council Chair Rapozo: Next speaker.

MATTHEW BERNABE: Good morning. This is complicated. I feel you, Councilmember Yukimura. I really do not like agriculture land being converted, but for this kind of thing, I totally like this. I am going to always tie my same team in. I lived this life. I am from Kapahi. Anybody knows me watching this video, knows who I am. I was this kid. I was the Kapa'a class cruiser, surfed Keālia all morning, and did not go to class, that was me. I worked and working gave me purpose. My cousins and friends that did not have the work ethic or purpose that I had, ended up hanging themselves because they went on to bigger and better drugs. My friends have hung themselves. My other friends ended up in jail. I am one of the few that has escaped that world so work and purpose is valuable. If we took this five (5) acres and created a farming program for the troubled kids, you got prevention, you got the folks who are actively doing it, you are giving them work, and then the farming can help fund the beds for the next tier that is beyond purpose. You have them all. You have the preventative stages, the active drug stages that have not gone over the side of the boat yet, and then you have the full tilt swimming in the ocean. I just think that because it is agriculture land, Grove Farm should be giving another twenty (20) acres so we can farm it and create a business plan. Why not? Have these children help build the ditch lines, give them some purpose, and they will learn math, right. If they are farming and they are actively doing what they are doing in Wai'anae, they are

going from one tilt all the way to selling it at the hotels. You are going to have all levels of education instilled and you will be able to subsidize this issue here, which I am a supporter of. My daughter is a teenager, some of her friends are great, but I see the other spectrum too, and what...they do not have anything to do. They need purpose. Get these ditch lines fixed with these kids and get some farming going. It is legal and it is the only industry that children can work in. I support this. Let us find creative ways to fund it.

Council Chair Rapozo:

Thank you, Matt. Next speaker.

DONNA TEXEIRA: I am fifty-eight (58) years old. I started using drugs at age thirteen (13). I think that this adolescent drug treatment center would be awesome because in our time, we never had nothing like this. I support it all the way and if you can support it too, I would really appreciate it. Thank you.

DEBORAH VANNOY-BOTELLO: I am a recovering addict. I am here to support the kids of Kaua'i to get the help they need so they do not have to wait too long, like how I waited. I started at twenty-one (21) years old, and I lost my child to drugs and I really needed this type of program. I have a niece who is eighteen (18) and she is stuck in that world right now. Thank you that is all I got.

Council Chair Rapozo:

We will be calling your names now, in the order you signed up.

KEN TAYLOR: First, I want to say that I am disappointed in the way this issue is on the agenda. I think you have two (2) different items mixed together. I think even the discussion this morning takes it in that direction. The only comments in here as I see it are for the two (2) parcels which are the first part of the request for the Right-of-Entry and the MOU belonging to one (1) property owner. I think the MOU is like putting the cart before the horse without all of the financial activities in place prior to making decisions. There is absolutely no reason at this point in time after two (2) or three (3) years of this issue being discussed, that the financial aspects of this facility are not well-known and understood by all of you as well as the community for making this kind of decision to move forward with an MOU. I think it is sad that we are at this point in time. This is a very important issue. I know for a fact, I have a son that went through a program like this and he has benefited tremendously from it. It is not something that I am proud of and talk about, but the fact is, it is a needed situation, but we need to do it right from the beginning. Again, we are ready, shoot, aim. It is a shame. I went to several meetings in the community two (2) or three (3) years ago, and there is absolutely no reason in the world that there is any excuse for not having the financial aspects of this project on the table before you enter any MOU. Thank you.

Council Chair Rapozo:

Thank you.

COURTNEY CHANDLER: I am twenty-six (26) years old and I too am a recovering addict. I started drinking when I was ten (10) years old because I did not know better. I just wanted to be like my Auntie and Uncles – crazy and having a good time. I never started drugs until I was seventeen (17) and in high school. Throughout my whole life I was consistently surrounded by it, not just by some people, everybody was doing it. For me, it was just a matter of time. I am here today to support the adolescent youth of Kaua'i so that they may get that help and treatment whether it be to stop it or even to prevent it. Thank you.

Council Chair Rapozo:

Thank you.

DR. MERRILY WORRELL: I have been a resident of Kaua'i for twenty (20) wonderful years. I have been, for my entire life, in the field of mental health and substance abuse and special education. I watched many generations suffer and I think that we can all sit here and talk about which comes first the chicken or the egg. You cannot ask a baby not to be born because you cannot pay the bill yet. We have to get this thing going. This is the third generation of kids that I have watched in our community and I think that we cannot continue to play semantics when our *keiki's* lives are being lost. Thank you.

CRYSTAL BATTULAYAN: Good morning. I am an employee of Women In Need and I am also an alcoholic and addict in recovery. I am today in support of having this adolescent treatment here on Kaua'i. I believe that having this adolescent treatment, it will be helpful and rewarding to the kids who are in addiction and families who have loved ones who suffer from this disease. For me, I started my addiction at age eleven (11). I wish there would have been a treatment center here so I could have gotten the help that I needed at an early age, but I suffered for over twenty-five (25) years of addiction. We are responsible in helping our children to heal, so I am asking for you to please support the adolescent treatment. Thank you.

Council Chair Rapozo:

Thank you.

ARIELLE SILVA: Good morning. I am twenty-six (26) years old and I am a recovering addict also. I stand here today in support of the adolescent treatment center because like many teens, my addiction started when I was fifteen (15) years old. I believe if I would have gotten the help I needed back then, I would not have dropped out of high school and spiraled out of control. This treatment center is also important to me because kids nowadays are starting to do drugs at a younger age. For example, my little sister was doing drugs from when she was fourteen (14) years old, she was sent away from all her family here on Kaua'i to O'ahu to a treatment program where she eventually ran away due to not having support there. I think that having this treatment center here will be very beneficial for families whose kids need help and support. Thank you.

Councilmember Yukimura: Thank you for your testimony. It is wonderful that you are in recovery. Was it a residential treatment center where you stayed, to help you make that recovery?

Ms. Silva:

I am in Women In Need (WIN) right now.

Councilmember Yukimura: service?

Is it a residential treatment or an outpatient

Ms. Silva:

WIN is outpatient and inpatient.

Councilmember Yukimura: for a while?

So there is places where you actually live-in

Ms. Silva:
In Need, yes.

I live in a clean and sober house at the Women

Councilmember Yukimura: a treatment and then you go and live there.

Ms. Silva: I never went to an inpatient treatment. We never had that service here.

Councilmember Yukimura: More power to you that you did that, so you are a great model.

Ms. Silva: Thank you.

Councilmember Yukimura: Your sister, you said ran away.

Ms. Silva: She ran away from the treatment center on O'ahu that she was at.

Councilmember Yukimura: Is she in recovery?

Ms. Silva: Now she is, yes. She lives on Moloka'i.

Councilmember Yukimura: How did she get to recovery?

Ms. Silva: I am not sure, to be honest. I am not sure.

Councilmember Yukimura: Thank you.

KALIA BOISER GOMES: I am twenty-three (23) years old and I am a recovering addict as well. I live in the WIN house and will be going inpatient treatment on O'ahu next week Friday at Hina Mauka. I just wanted to briefly share my story. When I was twelve (12) years old, I started experiencing with alcohol and weed. When I was fourteen (14) years old, I started doing cocaine and drinking "hards" (hard liquor). When I was fifteen (15) years old, I ran away for a month and a half and that run ended with a suicide attempt. I took about two hundred (200) Tylenol pills, a handful of Vicodin, a bottle of Crown Royal, a bottle of Patron, and I ended up in the ICU (Intensive Care Unit) at Wilcox for five (5) days. I wrote a note to my friend in there saying that this place makes me want to hang myself. I was only fifteen (15) years old, but then they sent me to Kāhi Mōhala Behavioral Health Center for two (2) weeks on O'ahu. While I was there I just kept thinking about how I wanted to leave because I was missing my family, but I really actually needed to be there. I was able to leave Kāhi Mōhala Behavioral Health Center on one (1) condition; they told me that I needed to go to Mokihana for counseling. I was going to Kapa'a High School, but when I got back home, Mokihana denied me; they said that I did not need their services. I told them that I just got out of Kāhi Mōhala Behavioral Health Center, but the only other option I had was to go to Hina Mauka at the high school I was at. The whole time, I feel like my underlying problem was drug abuse at a young age. Being that I am an addict and my son's dad is an addict, my three (3) year old son is at higher risk and if there was an inpatient treatment, I feel like it would be beneficial for him to be able to go there. That is all I have.

JOE ROSA: It has been three (3) long years that this has been going on. Three (3) years ago, the members of the Līhu'e Isenberg Tract, Block "A," and the Līhu'e Gardens were opposing this drug rehabilitation center's location. We were not against the drug rehabilitation center, I wanted it to be made known, but not within a residential area that they had it planned for. After a long two and a half (2.5) years or so, finally Dr. Sparks, the Committee that was formed to look into the location of the drug rehabilitation center finally came up with the site on Ma'alo

Road, on the road going to Wailua Falls. I know we had a little opposition, the Hanamā'ulu people said it was too close, but it is over a mile away from the Hanamā'ulu community, it is not as close as where it was less than three hundred (300) feet from the boundary of the center to my home. From the start as Mr. Taylor mentioned, it was not planned, it was something that was forced upon the community and we did not like it. Why should homeowners always be on the alert when someone gets loose until they are found, you live under fear. I have a sister that lives close to the girls' rehabilitation center that the State has at Kāne'ohe and every time someone is on the loose, they have to living in fear, stay at home, and lock their homes. That is not right. The citizens have rights. This is America and we should live without fear. That is what democracy is. Not the homeowner live in fear and these people are on the loose until they catch them. We are not against it, but as far as what I heard, "It is too far from transportation." A proponent of the bus situation here on Kaua'i always says that the bus will solve a lot of problems, but it is not a problem to get the bus up at Ma'alo Road because the bus system runs on appointment. You call them and they come and pick you up. What is the problem? If the person wants to get out of the treatment center there, they call the bus, and the bus will pick them up from there. We have been hearing many things. It should have started already by way of the legislature to appropriate moneys to get something done. Secondly...

Council Chair Rapozo: Mr. Rosa.

Mr. Rosa: Yes.

Council Chair Rapozo: Your red light.

Mr. Rosa: Okay. Thirty (30) seconds.

Council Chair Rapozo: No. How about two (2) seconds. Seriously, otherwise I have to do this with everybody. I appreciate that.

Mr. Rosa: There is a boundary between Grove Farm and the State. If it is going to cause a problem with Grove Farm for stipulations, see the State for the portion of the land up there. When I was working for the State, I surveyed...

Council Chair Rapozo: Mr. Rosa, make it easy for me. Next speaker.

Mr. Rosa: Thank you.

Council Chair Rapozo: You can come back.

LAURA MCNICHOLS: I am also a recovering addict and I also live at the WIN house. When I think about the adolescent program, I think about my own children. I have five (5) children and I was once an addict and adolescent and I had children when I was thirteen (13) years old. I believe it starts with drugs and then men, sex, and getting into trouble. When I think about the program, I think about my own kids and what kind of parent do I want to be. I thank God today that my children are really good and successful, they are nothing like me. I know that I have been to many treatments, and the one thing that was hard was that it was off-island. I believe that when you are a child, you need your parents' support, love, and you need to know that they are going to be there for you. Being an adult and being off-island was hard enough and not being able to see my children because of finances... It is hard financially to have to leave islands all the time, hop on the plane, go see

them for a weekend or a day, it is financially stressful. I know for me, I would want my children here because what if they do leave the program. I know I would be worried if I knew that my kids were out there on the street and heaven knows where they are or what they are doing. That is really all I wanted to share. Thank you.

Council Chair Rapozo: Thank you.

MARISSA SANDBLOM: Hello. I am with Grove Farm. Grove Farm has been working with the County for a number of years on trying to bring this project to fruition, and I am humbled listening to the testimony of the very courageous young women who shared their personal stories with us all this morning. Grove Farm understands that this project is of vital importance to our island community. Grove Farm is offering to donate and dedicate five (5) acres to the County for this project. While we are aware of the Mayor and his Administration's support, I believe it would also send a very strong message to our management team and the community at-large to know and have the Councils' unanimous approval and support of both the Right-of-Entry Agreement and the MOU, as it has been presented this morning. Thank you.

Council Chair Rapozo: Thank you, Marissa.

KIM SCHAEFER: Good morning. I am fifty-six (56) years old. I am a recovering drug addict and alcoholic. I am also with the WIN house. I just wanted to say I am in full support of this program. Thank you.

Council Chair Rapozo: Thank you, Kim.

GINA PA: Good morning. I am in full support of this adolescent drug treatment program. I am an addict myself, and in recovery. I have young adult children; I am a grandmother, which two (2) are in addiction. I think the decision that is made here today is going to affect all of our lives because our children are our future. This is going to give them guidance, direction, and purpose to be able to have that ammunition to start their lives. I did not have this when I was young. I went through residential treatment, which was a blessing for me. I learned who I was and our children need us for this. My life is going to be decided and I will do whatever I can to be a part of this residential facility for our families. Thank you.

Councilmember Yukimura: I have a question. Thank you for your courage and congratulations that you are in recovery. You said you went through a residential drug treatment program?

Ms. Pa: Yes.

Councilmember Yukimura: Where was that?

Ms. Pa: Hina Mauka on O'ahu.

Councilmember Yukimura: And that was while you were an adult?

Ms. Pa: Yes.

Councilmember Yukimura: How long was that for?

Ms. Pa: It was a nine (9) month program.

Council Chair Rapozo: I have a follow-up to that. For nine (9) months you were a resident, were you able to leave?

Ms. Pa: Three (3) months residential, three (3) months intensive outpatient, so I found a sober house, and then I go back to the facility, and then three (3) months aftercare before I graduated the program.

Council Chair Rapozo: The fact that you cannot see your family, was that a problem?

Ms. Pa: It was in the beginning. I can only imagine how a younger person may feel. They need that.

Council Chair Rapozo: Yes, you were older.

Councilmember Yukimura: Thank you for educating us. What was your first three (3) month interval? That was the intense residential in-house.

Ms. Pa: Yes, where I took cognitive behavioral therapy classes. I attended anger management. They just help you build a structure before you are put into a community and they provide that foundation that you need.

Councilmember Yukimura: During that time, are you allowed to have guests or is it a period of off bounds for a while, and then later on...

Ms. Pa: You are allowed to have guests thirty (30) days I think is the probation, but you are allowed to have your family there.

Councilmember Yukimura: And then you said three (3) months intensive outpatient, and then three (3) months active care.

Ms. Pa: Aftercare.

Councilmember Yukimura: Oh, aftercare. And intensive outpatient is that when you are in the WIN home?

Ms. Pa: You still have your classes at the facility, but they put you in a community sober house, and you have to do all of your NA (Narcotics Anonymous) or AA (Alcoholics Anonymous) treatment and counseling. They just keep you focused on that. Your family cannot be there, but everybody that lives on Kaua'i I noticed, none of their family could afford to be there.

Councilmember Yukimura: Of course.

Ms. Pa: And that was a lot for the youth to heal because we need our family to heal.

Councilmember Yukimura: Thank you.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Next speaker is Lani Nagao for the second time.

Ms. Nagao: I just wanted to say thank you to everyone and to Grove Farm for donating this land. Two, I hope you and I recommend as a citizen, community member, as well as someone in this treatment field that you accept the motion – these two (2) things before you. We would have the center built wherever the funds came from is not as important, it is the need for the service for our youth. Thank you.

Council Chair Rapozo: Thank you very much. Next speaker.

ANNE PUNOHU: *Aloha.* This is one of the first issues that got me out of the house after my daughter died. This drug treatment center is, was, and always will be a no-brainer for this community. I personally, I am not going to mention names or anything, but I am very close to a large family here who has had to experience the pain of having even more than one (1) child go off-island for drug treatment, and it has been a financial burden for them. It is true; the children that go off-island do not have the support of their families. *‘Ohana* is the most important thing for healing for any child going through any trauma. Having people around that love you and Kaua‘i people do not do well off of Kaua‘i. We need Kaua‘i people around us because we have a particular way that we have here. I am very grateful to Grove Farm for doing this great thing for the people, it shows a great cooperation between the people who have the means and the land that can do something good and it can benefit everyone. Anyone who says that a drug treatment center is not a good thing in their neighborhood, but other things are alright, I say, you are wrong. You are missing out on the future for our children. These people can be helped and they can be wonderful to go back in the community and do great things for the community, and turn around and help someone else. Is that not what we all want to do in our lifetime? Thank you to Grove Farm. *Mahalo*, and thank you for finally bringing our families close together during a time of great trauma for everyone.

Council Chair Rapozo: Thank you. Next speaker.

Ms. Fountain-Tanigawa: No further registered speakers.

Council Chair Rapozo: Anyone wishing to speak for the first time?
Okay, Matt followed by Ken.

Mr. Bernabe: I would just like to reiterate that I do support having this on the island and this would be something that I would like agriculture lots to be rezoned...or is it already zoned...I do not know. A well thought out plan for a farm to table method of financing the whole project, that is where I see this going. Other students that may not even be at risk can participate in this. If Grove Farm would not be able to add on land in their own region, that could be a training facility to have the kids go out and help farm other parcels that are maybe a gentlemen's acreage that they have a house on two (2) and they have eight (8) acres that they would want to farm. You could get a bus within that same financing that could shuttle them to different farms. There are many ways to think outside of the box on this. I think farming is the way to finance the program. If kills two (2) birds with one (1) stone. It gives the kids the curriculum to learn different skills, and it finances the overall program. I do not know how much room it takes for ten (10) beds, but if it leaves three (3) acres off two (2) acres, then turn it into a farming training facility where you teach them what they need to know, and then they can go out and get jobs either at the coffee field or at somebody's farm. I support this. We have to think outside the box and not just say we cannot. Thank you.

Council Chair Rapozo:

Thank you. Mr. Taylor.

Mr. Taylor: I would like to congratulate all the people that are here today, in the public, admitting they had a problem and they are resolving it. It takes a lot of courage to sit up here in front of the camera to do that, and my hats off to them. I really believe this is a great first step in solving their problems. What I want to talk about now is this Right-of-Entry Agreement and how this is worded to talk about moving forward with studies from the past. We have heard that this new facility up there was going to have a recovery park on Grove Farm land where we had adequate space and capacity for two hundred (200) years. I think that if any study is done that can continue down that path of considering putting the recovery park on Grove Farm land is very foolish and a waste of money. If it is going to be done, I certainly like to see a cost benefit analysis done because if we have State lands, that is more than adequate to take care of the recovery park for a hundred and fifty (150) years.

Council Chair Rapozo: Ken, we are on the subject of the treatment center, and not the recovery park.

Ken, we are on the subject of the treatment

Mr. Taylor:

Well, that was originally part of the whole...

Council Chair Rapozo: It was never part of that. That is a totally separate issue. This was originally at Isenberg, the plan, and then it was moved up to Ma'alo. It is totally separate from the recovery park, so please keep your comments to the adolescent treatment center.

Mr. Taylor: Well in the past it has always been put together as one (1) package.

Well in the past it has always been put

Council Chair Rapozo:

Okay, that is...

Mr. Taylor: And I do not see it changing. We need to move forward with the Right-of-Entry Agreement and it is long overdue and again, this is another situation where this has been going on now for a couple of years and I just do not understand why after a couple of years, we are just now asking for a Right-of-Entry. Thank you.

Council Chair Rapozo:

Let us take a ten (10) minute caption break.

There being no objections, the Council recessed at 10:50 a.m.

The meeting was called back to order at 11:02 a.m., and proceeded as follows:

Council Chair Rapozo:

Mr. Rosa.

Mr. Rosa: As I was saying and did not finish when it comes to the location site, if it is a problem with Grove Farm...and this drug rehabilitation is a State project or State problem that the State could make land available. And you know that it is going to be there for government use only whether it be State or County government. Those are the kinds of things that I show the need of a drug rehabilitation center. The Līhu'e community stated that they are for a drug rehabilitation center, and not against it. We were against the location that was right in the back of our neighborhood, those were the reasons. The elderly population in the plantation, Block "A" area, were concerned about it because they are in their

eighties (80s) and nineties (90s). I am still around and I am able to be mobile still. I do not like to see the elderly be pushed over by little guys that are high on drugs because in our meetings the policemen used to say that sometimes when they go to apprehend, they would have to use stun guns because they were strong and under the influence of drugs. Things like that had to be used. How can an elderly person or lady protect herself against a person that is high and under the influence of drugs or alcohol, either one? That is the reason we were against it, but yet, we felt that out at Ma'alo which is close to the hospital, school, police station, within a mile, was a sufficient and safe place. From my time when I was a youngster, we were all shipped off-island to Honolulu when you were a troublesome child, boy or girl. They had separate stations and it was at that time a Territory problem. I think it should be a State problem as of now, there should not be any differences. The County level is the County, but this is a State problem. We can go further and say that it is a national problem. Thank you. I will leave you with that thought.

Council Chair Rapozo: Thank you, Mr. Rosa. Anyone else wishing to speak? Councilmember Yukimura.

Councilmember Yukimura: I would like to ask Madeleine Hiraga who is here, to come up. She works for the Department of Health. I would like to ask her to come forward.

Council Chair Rapozo: As a resource person?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Okay. Let us finish up with public testimony.

Ms. Punohu: Aloha. I just want to address what the pervious speaker said, although I respect him highly. It does not matter where you are in the community, you will face people who are on drugs in our community, whether they are in a drug treatment facility or not. They are in your community. They are in your own home and family. However, it is unfair to say that you do not want them around you because they are already around you. Let us solve the problem. Let us help the people. I absolutely disagree with the pervious persons' statement. *Mahalo*.

Council Chair Rapozo: Anyone else wishing to testify a second time? Mr. Mayor.

Mayor Carvalho: Council Chair Rapozo, thank you for your leadership as we continue to move forward in this particular discussion. I sat through hours and hours of testimony and discussions of this particular program and the opportunity that we have as leaders to build it. We have a gift before us today of five (5) acres of land from Grove Farm, and I believe this gift will open doors to bring in the resources that we will need such as financial resources, manpower, and support from the community. I strongly believe as the Mayor of County of the Kaua'i and Niihau, in this particular discussion, that the resources will come. We just need to secure this land. The people who I have talked to from all levels have said and agreed that we need some kind of facility like that, but it was always a question of where. Not here, and not there. In this particular time, we vetted out numerous areas of our island, and I feel strongly that with this gift that we have before us today, that in simple terms, "If we build it, the resources will come," I strongly believe that. I appreciate the opportunity from the community. I also want to recognize the Blue

Ribbon Panel; it is not just me or my administration. We have reached out deep into the roots of our community to bring the key leaders into our Committee. The Blue Ribbon Panel is a stellar group that has *mana'o* and knowledge and this discussion is just, "We will do it just to do it." Enough already, let us move forward, I am committed, we are going to build this, it is going to happen, and money and resources will come, programs will come. It does not matter if it is the State's responsibility or the County's, Federal's...it is our responsibility. It is not "Me," it is "We." Thank you again for the deep discussion on this and I look forward to taking this to the next level. You have my commitment, Council Chair Rapozo that we will work together in making this happen. Thank you for the opportunity.

Council Chair Rapozo: Thank you, Mr. Mayor. Councilmember Yukimura.

Councilmember Yukimura: Thank you, Mayor. Your Blue Ribbon Panel apparently agrees with the first two (2) recommendations of the feasibility study. One is that Kaua'i County should help to facilitate the integration and coordination of all services for Kaua'i adolescents. Are you committed to this?

Mayor Carvalho: Today, I am committed to securing the land, and everything else will follow, Councilmember Yukimura. We have to secure the land, period.

Councilmember Yukimura: That is not my question though.

Mayor Carvalho: That is my answer. We need to secure the land in order to move forward.

Councilmember Yukimura: Are you refusing to answer the question as to whether you are committed to the first recommendation of the...

Mayor Carvalho: I am committed to all recommendations pertaining to this particular project. Today's discussion, I really need your help Councilmember Yukimura, to secure this land, this gift.

Councilmember Yukimura: I want to help you, Mayor, but...

Mayor Carvalho: So, let us do it.

Councilmember Yukimura: I want to help you, but I also require that from your side you do your due diligence.

Mayor Carvalho: Believe me, I am committed. I got my team here...

Councilmember Yukimura: Mayor?

Mayor Carvalho: ...I got my attorney's here, Managing Director here, and we got the community's support.

Councilmember Yukimura: Then you will be able to answer my question, Mayor.

Mayor Carvalho: I answered your question.

Council Chair Rapozo: Yes, he did, he said he is committed.

Mayor Carvalho: Thank you so much.

Councilmember Yukimura: Mayor, I want to know when you will have this in place that...

Mayor Carvalho: We are working on putting all that information that you need, Councilmember Yukimura, together. My reasons for sitting here today is to secure this land.

Councilmember Yukimura: Yes, Mayor...

Mayor Carvalho: Let us do it and everything else will follow. You have my commitment that the information that is needed by this body here, working with Council Chair Rapozo, we will provide that information. Just give me the time, and all I need, is to secure this five (5) acre gift from Grove Farm.

Councilmember Yukimura: Mayor?

Mayor Carvalho: And that is it.

Councilmember Yukimura: Okay.

Mayor Carvalho: Thank you so much Councilmember Yukimura.

Councilmember Yukimura: And Mayor, I am asking that you be able to show us when this will happen.

Mayor Carvalho: I have a Managing Director...

Council Chair Rapozo: Mr. Mayor, hang on...

Councilmember Yukimura: Okay.

Mayor Carvalho: Thank you so much, we really appreciate the opportunity.

Council Chair Rapozo: Mr. Mayor, I have a question for you.

Mayor Carvalho: I am sorry.

Council Chair Rapozo: I understand because I am feeling like you at the moment.

Mayor Carvalho: But I appreciate Councilmember Yukimura's passion.

Council Chair Rapozo: I appreciate it too, but that has been answered. The Administration was asked earlier, maybe before you came in, that we are sending over all the questions and the responses will be forthcoming in writing.

Mayor Carvalho: Yes, please.

Council Chair Rapozo: That has already been said.

Mayor Carvalho: Okay, good.

Council Chair Rapozo: Now I have a question. I know you are committed as I am and most of us here, if not all. The cost to operate this facility is two million dollars (\$2,000,000), which is a high estimate. Are you committed as I, that if every person on this island said, "Screw you, we are not going to give you anything," are you committed Mr. Mayor to look within our own budget to come up with that money?

Mayor Carvalho: I am committed...we are committed to making this happen.

Council Chair Rapozo: To make it happen.

Mayor Carvalho: All I am asking today is to please secure the land.

Council Chair Rapozo: Right, I have never seen so much hassle.

Mayor Carvalho: And I believe...oh, I am sorry...

Council Chair Rapozo: Thank you. I know you are bigger but...

Mayor Carvalho: You are the Council Chair.

Council Chair Rapozo: You scare me sometimes.

Mayor Carvalho: I am sorry. I am listening.

Council Chair Rapozo: We are here to accept a gift of five (5) acres. If we cannot make it happen the memorandum says that it reverts back, it goes away, and disappears.

Mayor Carvalho: Right.

Council Chair Rapozo: Now, the onus is on us and my question, Mr. Mayor, and I heard it, but this will be your opportunity to restate it, which is the level of the commitment. For me, I am asking you and let us say...and it is not going to happen...we have Mr. Facebook here; Mr. eBay, E-Trade, or all these billionaires are here. What if they said, "Screw you, Kaua'i, we just came to milk your resources and we do not want to help," and I hope they are watching. Are you prepared to figure out a way to allocate out of our County budget, two million dollars (\$2,000,000), to make it happen? To take care of the people that we saw here today and their children?

Mayor Carvalho: I am prepared to working very closely with you, as leaders, to make this happen. If it means that we have to look at what we have internally, all I am asking for today is that we secure the land, and I believe that resources will flow.

Council Chair Rapozo: I believe that too.

Mayor Carvalho: Thank you.

Councilmember Yukimura: Mayor, I heard your Managing Director say that your goal is to ensure that there is money outside of the County's budget. I am wondering your position as a policymaker, is that your position?

Mayor Carvalho: That is my position.

Councilmember Yukimura: That we are looking at...

Mayor Carvalho: We are going to meet with the Department of Health. We have set up a series of meetings...

Councilmember Yukimura: You have been meeting with them several times.

Mayor Carvalho: Oh, yes, but now guess what...we are going to tell them that we have the land in place, members of the Department of Health, and yes, we are totally committed even more so from the last time we spoke with them, and they are going to say, "Okay, with this stream of funding coming this way, private sources coming this way, other opportunities coming this way, we are going to build this." I believe that.

Councilmember Yukimura: And who is...

Mayor Carvalho: That is all I need today, is to secure the land to help me...during my conversations with key leaders from the Federal, State, County, whatever part of this community to say that we work together as Council and Administration. This is one project, I believe, we together can say, "We are moving in that right direction." This gift, I am telling you, will open the door.

Councilmember Yukimura: Mr. Mayor, you told me that two (2) years ago when we first allocated the...you wanted the five hundred thousand dollars (\$500,000)...

Mayor Carvalho: Councilmember Yukimura, listen to me, two (2) years ago...it takes time to talk to the community. I am not going to just rush through things. For me when I work...you look at the community, you vet it out, you ask questions, you look at what you have before you before you make your final decision. That is how I work. It took a series of meetings. Thank you so much, Council Chair, I am done.

Council Chair Rapozo: I will tell you what, two (2) years...I have to really discipline myself today. Is there anyone else wishing to testify? If not, we will call the meeting back to order...

Councilmember Yukimura: I asked for a resource person.

Council Chair Rapozo: Oh, sure, I am sorry. The rules are still suspended. Go ahead.

Councilmember Yukimura: Could you state your name? Thank you, Madeleine for being here, and you are part of the Blue Ribbon Committee?

MADELEINE HIRAGA-NUCCIO, Branch Chief, Kaua'i Family Guidance Center: Yes, I am.

Councilmember Yukimura: Can you describe what your office does? You are in charge of Children and Youth Services, Mental Health Services.

Ms. Hiraga-Nuucio: That is correct. Child and Adolescent Mental Health Services. We specifically serve the children and families of Kaua'i, we are part of a Statewide agency.

Councilmember Yukimura: Can you briefly describe your background?

Ms. Hiraga-Nuucio: I am trained in social work and I have worked both in the juvenile justice, adult justice fields, as well as physical and mental health services over the past twenty-five (25) years.

Councilmember Yukimura: In terms of all needs that were brought up by these courageous women who talked about wanting for their families, children, and themselves services...where does this intensive residential adolescent treatment fall in terms of all of those services?

Ms. Hiraga-Nuucio: It is a component of a continuum of care starting with prevention services, as was mentioned earlier, all the way through hospital-based care. It is at the higher end of the spectrum. It is a component that has become a key part of healthcare in general and has developed into part of a system of care that requires both treatment of the individual as well as the family and reintegration into the community.

Councilmember Yukimura: In terms of best practices, what is the best practice approach to the most intense services needed?

Ms. Hiraga-Nuucio: I think what you are asking is sort of the current state of the science around treatment for chemical dependency and substance abuse. Certainly, for children and adolescents, we believe that the earlier you start the better. The idea of providing preventive services similar to what occurs in our schools with non-profit agencies is key, in addition when we are treating children and youth for both chronic disorder issues as well as other substance chemical dependency related issues, we attempt very early on to involve the family and treat the youth in the setting in which he or she lives. The key to that is treating the entire system around the youth.

Councilmember Yukimura: These services, which are part of the continuum of care that lead up to the most intensive, which is residential adolescent treatment, are they best provided in the same context as residential adolescent treatment? Does properties say that it is good for residential adolescent treatment; does that serve well also the other services that lead up to residential?

Ms. Hiraga-Nuucio: I believe that it can. I think that it is a matter of having services and available accessible to the families. In many of the current evidence based services, a lot of the provision of care actually occurs in the community. They are at the family's home or somewhere close to the family's house, in a comfortable setting. Frequently for example, multi-systemic therapy or intensive in-home services, the therapist, counselor, and other support – providers go to the

family in-home. The idea of having a centralized site does not preclude having outpatient, very robust and flexible outpatient services.

Councilmember Yukimura: But the place where outpatient services are given, is accessibility of that place important?

Ms. Hiraga-Nuucio: I think that it is if you are having an entire continuum of care in that location. Prevention services which are not required to be as intensive and so the provider does not have to go to the family's home. They can actually be provided in a setting where there are more group services and that would be best served by a site that is easily accessible to everyone in the community.

Councilmember Yukimura: So the public transportation does factor into this, especially for adolescents who cannot drive and also for families who do not always have car.

Ms. Hiraga-Nuucio: It certainly can, especially in the early prevention and early intervention stages.

Councilmember Yukimura: And in this...

Council Chair Rapozo: Hang on, Councilmember Yukimura, Councilmember Kagawa has a question as well, and I want to split it up.

Councilmember Yukimura: Okay, sure.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Madeleine, you said you have been working twenty-five (25) years with the children of Kaua'i.

Ms. Hiraga-Nuucio: No, with children both in California and Kaua'i.

Councilmember Kagawa: How many years on Kaua'i?

Ms. Hiraga-Nuucio: Seventeen (17).

Councilmember Kagawa: You are with the Child and Family Service Division.

Ms. Hiraga-Nuucio: Child and Adolescent Mental Health Division.

Councilmember Kagawa: Say a school has a child that is not performing well, home life not good, probably suffering from drug abuse; does your Division handle that case?

Ms. Hiraga-Nuucio: We do have clients that fit that profile. The other requirement for them to receive services from us is that there is a mental health disorder identified.

Councilmember Kagawa: So, there are other agencies of the State that come into play as well, such as Mokihana, et cetera?

Ms. Hiraga-Nuucio: Yes.

Councilmember Kagawa: You as one component and Mokihana is another component, how are you folks doing in the past seventeen (17) years? Would you say that we are succeeding in battling drug problems with our children, or would you say there are a lot more that we could be doing?

Ms. Hiraga-Nuucio: I would say there is absolutely a lot more that we could be doing. I think that the advances that you would see around therapy, and substance abuse intervention have absolutely improved exponentially over the last ten (10) years, there is so much more to be done.

Councilmember Kagawa: I do not want to talk about specific cases because I know there are confidentiality concerns, but if I just brought up a case, John Doe, he does not have a good home life, your agency determines that it probably would be helpful to swing for the homerun and try and send them to a residential facility, where do you send them right now and who pays for it?

Ms. Hiraga-Nuucio: Currently if the youth is a client of Kaua'i Family Guidance Center, Child and Adolescent Mental Health Division, the State pays for it through the Department of Health General Fund moneys. We typically use Bobby Benson Center as our first...

Councilmember Kagawa: On O'ahu.

Ms. Hiraga-Nuucio: On O'ahu.

Councilmember Kagawa: How much does it costs per day or month?

Ms. Hiraga-Nuucio: For that service, the Department of Health pays about four hundred and twenty dollars (\$420) a day.

Councilmember Kagawa: A day? Thank you so much.

Ms. Hiraga-Nuucio: Yes.

Council Chair Rapozo: Bobby Benson is on O'ahu?

Ms. Hiraga-Nuucio: It is on O'ahu, yes.

Council Chair Rapozo: Not very good transportation available there right?

Ms. Hiraga-Nuucio: It is difficult. We have to fly people over and of course, they are located on the far north shore of O'ahu, so it is also...

Council Chair Rapozo: Do we say, "Let us not do it because we cannot have adequate transportation over there"?

Ms. Hiraga-Nuucio: Not at all.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: With your knowledge of what it takes to do the residential adolescent drug treatment, do you think it would be feasible economically for the County to maintain a residential adolescent drug treatment center without the allocation of bed moneys that comes through the Department of Health?

Ms. Hiraga-Nuucio: I do not think that I am actually qualified to answer that question, but you heard...

Council Chair Rapozo: That is a policy question. That is not an expert question. That is not a medical health question. That is a policy question.

Mr. Hiraga-Nuucio: But you can certainly calculate the expected costs based on the rate per day and that hits a huge number.

Council Chair Rapozo: It is like asking the Budget Director to come up and ask him about the feasibility – medically...you are a professional in your field. As far as whether or not the feasibility plan...is a policy question that we should answer.

Councilmember Yukimura: Well are you aware of any stream of funding other than that which is sustained funding for things like residential drug treatment?

Ms. Hiraga-Nuucio: I know that with the advent of the Affordable Care Act, there is going to be more money allocated or expected from insurance companies to be paid into substance abuse treatment. It is still unclear exactly what kinds of reimbursement money that will create for agencies to draw upon. I think that whole idea of researching that and figuring out if there is a funding stream is key to your decision making.

Councilmember Yukimura: It says so here in the Blue Panel responses that there was no disagreement with recommendation number 2, the County of Kaua'i should negotiate with the Child and Adolescent Mental Health Division, that is your Division, but maybe higher than you, for therapeutic bed slots for the facility and if the slots are not available, building, purchasing, or leasing it, adolescent substance abuse treatment facility would be cost prohibitive and not feasible.

Ms. Hiraga-Nuucio: Given the information that I have right now, today, I do not know that there are other funding streams, but that also is something that needs to be undertaken by someone other than me, but it has to be clearly and closely evaluated.

Councilmember Yukimura: Apparently, the County will be the one to oversee the operations of this facility, because the County is going to issue the contract, so what kind of expertise does it take to oversee the contracting of that kind of facility?

Ms. Hiraga-Nuucio: Probably the only way that I can answer that is that I do not do the oversight of any of our contracts even though I am closely involved with the relationships with providers. All of the contract oversight, in my Division, is done by an office of two (2) people that are at the division level.

Councilmember Yukimura: What kind of expertise do they have in terms of residential treatment care?

Ms. Hiraga-Nuucio: The folks in my office?

Councilmember Yukimura: Yes.

Ms. Hiraga-Nuucio: They are primarily accounting and financial managers, so they do not have a lot of treatment experience.

Councilmember Yukimura: So in terms of liability issues and proper operation and treatment delivery, who evaluates that?

Ms. Hiraga-Nuucio: There is another section within our Division that is responsible for credentialing and quality management.

Councilmember Yukimura: Okay, so that is something that the County would need in order to ensure that whomever operates the facility is qualified?

Ms. Hiraga-Nuucio: I do not know that I can answer that, necessarily, but it is certainly something that we, within the Division that I operate in, is key to our oversight of contracts.

Councilmember Yukimura: Council Chair, I would like to have that question go over as to who will be overseeing the contract and what kind of qualifications are necessary for ensuring appropriate operations. And respecting that, is it not true that the credibility of the operations will affect whether or not the beds are filled?

Ms. Hiraga-Nuucio: I think it has a potential to do that in the long-term, yes.

Councilmember Yukimura: And we have in our feasibility study if only four (4) beds are filled, or only six (6) beds are filled, what kind of operating loss will that create. So, that is one of the things we have to look at and be aware of. On this continuum of care that the County of Kaua'i should help facilitate the integration and coordination of all services, what kind of expertise is needed in the County to facilitate the integration and coordination of all services for Kaua'i adolescents?

Council Chair Rapozo: Do not feel that you need to answer that. If you feel that you cannot answer it, that is good as well. I think those are some very tough questions for you in your position to answer, but...

Ms. Hiraga-Nuucio: This is probably not necessarily taken from my professional training, but my experience with the County over the years has been that it has provided an excellent service in terms of bringing together different providers; different entities, people who share parts of a continuum of care and making sure that those components are speaking, talking, or coordinating things. I am not sure exactly what kinds of qualities that the people who do that need, but that whole idea of facilitation and coordination is something that the County has done.

Councilmember Yukimura: What kind of complications, if any, should the County be aware of in trying to make this adolescent residential treatment center available to both genders, male and female?

Ms. Hiraga-Nuucio: I think there are considerable efforts made, for example, at Bobby Benson Center where there are both genders in treatment, to maintain separation of the males and females.

Councilmember Yukimura: Does it need two (2) different kinds of staff? Can one (1) set of staff service both males and females?

Ms. Hiraga-Nuucio: Certainly, some of the staff who serve both genders at the same time, for example, when they are in groups for their education setting. The housing has to be separate and so then you have two (2) different staff overseeing each of those buildings.

Councilmember Yukimura: So you would need two (2) sets of house-parents?

Ms. Hiraga-Nuucio: Yes.

Councilmember Yukimura: So that would double that cost from a one-gendered facility?

Council Chair Rapozo: Councilmember Yukimura, we already got the numbers on the costs. We already got that.

Councilmember Yukimura: Okay, alright.

Council Chair Rapozo: Have you operated a facility, or worked in a facility?

Ms. Hiraga-Nuucio: I have worked in a group home setting.

Council Chair Rapozo: But as far as an acute-care adolescent treatment facility like the one that is being proposed?

Ms. Hiraga-Nuucio: No, I have not.

Council Chair Rapozo: As much as I appreciate you trying to answer, I would ask that if you know the answer, then fine, because it is unfair to ask you questions that do not pertain to your specialty.

Councilmember Yukimura: Who is the person in your Division that provides the therapeutic bed slots? Who makes the decisions about that?

Ms. Hiraga-Nuucio: To enter into contracts, it would be Administrator Stanton Michels, M.D.

Councilmember Yukimura: What is his name?

Ms. Hiraga-Nuucio: Stanton Michels.

Councilmember Yukimura: Alright, thank you.

Council Chair Rapozo: Any other questions? If not, thank you very much.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I will be in support, like the Mayor, I want to work together. This was an issue for me that, in running, I supported before I was even elected here. I remember there was a Salt Pond one which I thought it was a good location. We moved the Humane Society from the Salt Pond area into the mansion at Puhi, and I thought, wow, that would be a good site to utilize for our first center. It is near the beach, and salt beds. I thought perhaps they could volunteer by working there, but it did not work. Second one was by Isenberg. I have some close friends that live there, and I agreed that it is a little close to them and I could see their pain and anger. Yet, I saw no malicious decisions on the part of the Administration. They had a lot there. It made financial sense, but then again, it did not work out. Here we are today with something that is kind of away from everything, isolated, and we do not have that problem that we had with the Isenberg parcel. There are a lot of questions that are going to be unanswered. A lot of the concerns about whether the County is going to pay the bill in the end, are valid, but the question is what steps are we going to take as a County to take care of our own kids and our own problems, instead of shipping them to the Big Island or O'ahu? I think we all know that our people best know our own kids and can best relate and take care of them. This is a huge problem out there. It may be only a few kids, I think, ten (10) beds are sufficient, maybe even too much for what we need, but I could be wrong. Even if we take care of four (4) or five (5) that are not getting the help that they need, I think we are going to be saving a lot more in police costs, court costs, Prosecuting Attorney costs, and residents' stress costs. This snowballs, and then when they have children, it just recurs and I think we have an opportunity here. We are no longer a small island. When I was in high school, we had forty-five thousand (45,000), I think right now I am hearing seventy thousand (70,000). We are big and the drug problem, now has ice included which is huge, I think we have an opportunity here, we have the land that is being donated, it is a great place to start. Does our answers end, of course not, but we have to see the best way we can pass the burden on to those agencies that should be sharing the burden, at the Federal and State levels. We will benefit in the end. The Police Department will benefit. They will not be arresting the same folks over and over again, when they get old. I think we have an opportunity here to take care of our children. A lot of them, they had no options. It is tough and if we have a facility like this, I think we can have a chance to help them recover, because everybody deserves second and third chances. This is just about political will, about wanting to try and solve a problem instead of pass the problem to Honolulu or the Big Island. To me, that is not *pono*. We need to take care of our island. We are a big island now, we have a large population here, we have to take care of our own problems, and we enjoy the successes as well of our own people. Thank you.

Councilmember Yukimura: I want to thank Grove Farm for their generous gesture and their willingness to donate the land. We all recognize that there is a major public problem with substance abuse and I know Grove Farm really wants to help with that. All of us agree with the want and see the need for an adolescent drug treatment facility, including myself, but whether we need an adolescent drug treatment facility is not the question. The question is how do we meet that need? It is not just about semantics, it is about success or no success. How will we meet the need if we open the shelter and then have to close it? As it has happened in Maui and on the Big Island where the population are much bigger than our population. There are two (2) places on O'ahu and actually really just one (1) for intensive drug treatment, and that is on an island where there is a population of over a million people. We might be able to meet our need much more cost effectively if we paid for travel and lodging for eight (8) families every year. I want to commend and

thank all the women who came today and had the courage and grace to testify about their struggle, journey, and success, it is very inspiring. If you listen carefully to what they said, what they want is effective drug prevention and treatment, things that help their kids and themselves find goals, support, skills, and pride. That treatment begins way before intensive residential drug treatment. Things that could be provided if we did not spend half a million dollars (\$500,000) on an environmental assessment and design, six million dollars (\$6,000,000) on construction, and one point three million dollars (\$1,300,000) every year on operations. We might be able to help a lot more kids, save their lives, and also take care of the eight (8) kids a year that need intensive residential drug treatment. Two (2) years ago, we had this feasibility study done; we received it on May 13, 2013. It is done by a highly qualified consultant, a local girl, lawyer, a degree in social work or sociology, who oversaw adolescent drug treatment in Silicon Valley where competence and high-level quality treatment is required. She also consults with the Attorney General here in Hawai'i, they call on her when they need to address issues of liability and legal issues dealing with children. The two (2) recommendations which the Blue Ribbon Panel does not agree with, the need to facilitate that integration and coordination of services before an adolescent substance abuse treatment can be effective, and also making sure that we have the money to operate are the two (2) recommendations that after two (2) years are not addressed. Still not addressed. I do not believe that we have to have a site in order to have those two (2) things addressed. I believe we are putting the cart before the horse. If we are to do our planning and our feasibility correctly, and this is in order to get a successful facility, we need to have these two (2) requirements met before we go about getting the land or doing a EA and drawing the building when we do not even know if we are going to support it and operate it.

Council Chair Rapozo: Thank you. Anybody else? Councilmember Chock.

Councilmember Chock: I will be supporting this Right-of-Entry, and want to see this...I understand how important this is for our community. I believe, like the Mayor does, that if we want to get something done, we will get it done. I have to think that we are all in agreement that this is important. I just want to get really clear about what it is we are saying we are going to do because we have not done it and we need to. I want to take us back to the day that we had our shared priority goals and we spent time as the Council and the Mayor's Office...we had the discussion and out of everything that was shared, this did not move up the ladder. We got roads, affordable housing...a lot of things that this Council and the Mayor's Administration wants to work on, and so as much as this is important, this to me falls into the category of...and why this discussion is so important about whether or not we are going to fund this in the long-run. I do not believe the County should be the one to fund this in the future. We got rid of our Open Space Fund, a million something dollars right there to...are we going to fund this now, the two million dollars (\$2,000,000) when we are in a shortfall? The budget is our goal. That is what we want to achieve. That is what I am focusing all my time and energy on. What that means for me is that if this is going to come to fruition, then the message is that the community needs to step forward and that our Administration can help to facilitate those needs which I understand...I would like to see the role be, to ensure that we get this done. When we laugh at Matt, when he comes up, he talks about a lot of different things, but Mr. Bernabe said something that I thought was really important and that was that it is about finding purpose. I think Councilmember Yukimura said it also. If we want to see this issue at its root level be addressed, it is within finding purpose and giving our kids a life that they can look forward to. It is a proactive action rather than a responsive one. That is getting to the root of this issue. We have to be clear

on what are the most important things and our priorities. As I said before, I am supportive of this moving forward. I trust that we are going to see a plan and coordinate and figure this out with the State, but I do not believe this County should be the one sustaining this facility in the long run. I want to thank Grove Farm for stepping up and helping this move as far as it has. We just defunded a proactive approach which is Keiki to Career on how it is we are going to address getting people into good jobs and into their careers and their college, and we are taking a responsive approach to this issue. We need to consider that when we make decisions as leaders. Thank you.

Councilmember Kualii: I have always been supportive of an adolescent treatment center and I have always been supportive of supporting substance abuse programs of any kind for our families. I think it is critical and I think it has to do with public safety and livable communities where we can all live together as families in a positive way. I have always been fully supportive and will always be. Today, we are talking about a Right-of-Entry Agreement and a MOU for the dedication of five (5) acres for a treatment and healing services center, that is easy I think. I cannot believe that we just spent two (2) or three (3) hours getting buried in the weeds, but this is a start of a process. We need to support the Administration and celebrate and applaud that they are making this move and that Grove Farm has stepped forward with the generosity of five (5) acres that can make this doable. Can you imagine if we had to buy five (5) acres of land? That is a huge step forward. If you work in any non-profit and you are going after grants, I work with Hawaiian Homes too, the fact that you have the land, you can leverage that to accomplish so much more in addition to the sweat equity of all the community folks that are willing to step forward and do the work, this is so doable. The fact that it is needed, and is doable, together makes this something that we have to move forward on. For me, if it was two million dollars (\$2,000,000), which it will not be, like others have said there are so many different pots of support and funding that is possible, including individual donations. I would happily donate a hundred dollars (\$100) and if ten thousand (10,000) people step forward and make those small donations, that all adds up too. If it was two million dollars (\$2,000,000) of a hundred and eighty-two million dollar (\$182,000,000) annual budget, you are not even talking about one percent (1%). We put percentages of those chunks of money into all kinds of things and programs, why not put our kids, communities, and families first? This is very easy for me. As far as the base of the constituencies that I represent, starting with my own family and community, I would much rather put funding aside for substance abuse programs, for an adolescent treatment center than open space, but that is just me and my vote. I was elected to come here and represent that. Ultimately, seven (7) of us make decisions and we did not eliminate open space, we just reduced it back to the level of what the voters decided on and it is still beautiful, I mean, the fact that it has a set aside of point five percent (.5%) every year. The voters decided that. If I was just a community organizer working in the substance abuse community, maybe I would rally a Charter amendment to put point five percent (.5%) aside for substance abuse, housing, or education. There is a lot of important work that we have to do and let us never ever make it about funding, because political will and priority tells us that, yes, we have a limited amount of money, but if we are serious about what is most important to our families and communities, then we make those decisions and move forward. I am so happy to support this today, move forward, and I will support it every step of the way.

Councilmember Hooser: I want to thank everyone for offering his or her testimony today. *Mahalo* to Grove Farm also for their generous offer and gift. This is not as easy...I mean some of the most difficult phone calls I ever got in my

time spent as an elected official are from parents and grandparents, calling me up and saying they are sitting next to their son or daughter, or their grandson or granddaughter and they are looking for a place for inpatient treatment. The person has come to the conclusion that they are at the end of their ropes, and they need help, they want help, and they want to go check in somewhere and there is no place to check in – nothing. When there is something, it is not here. To have to tell a parent that there is nothing I can do, there are no beds available, no treatment available, is just really hard. This issue is definitely one that we need to as public officials, as elected officials, step up and do our part. I will be supporting this. Having said that, the easiest votes are emotional votes – mom and apple pie votes, everybody wants this, so we are going to vote for it, we are going to spend money for it, and we are going to make everybody happy. At the same time, if anyone looks at the public record over the last year, the mantra from this Council and many people in our community is that we need to cut costs, spend less, stop growing government, spend our money less, and tax people less. That is not what we are doing. This is not a core responsibility of the County, but yet we feel there is a responsibility for us to step up at the same time you cut Keiki to Career, and other services that many would say are very valuable, and now we poised to expand government for this purpose. In the scope of things, yes, two million dollars (\$2,000,000) may not be a lot of money with the County budget, but year after year and more and more, or a hundred dollars (\$100), I can give my hundred dollars (\$100) too, but asking people to give a hundred dollars (\$100) every year with the history of this type of investment is not a good one. As Councilmember Yukimura pointed out, many have closed before us. I think she raised some very good points about accountability and how we spend our money and the different ways to approach this problem. It is not just about building a building and putting beds in the building. There are many ways to approach the problem. I am supporting it primarily because the language, and I applaud the County Attorney's Office for including the language broadly, so if for some reason we cannot afford and fully pay for it or find others to pay for it, other uses can be made out of this property. It is fairly flexible. It says adult and adolescent health care and that is pretty wide open, in five (5) acres for a facility, I am confident that we could find someone to run services out of there so that the County would not just to spend more money. It gives us options. I applaud the Mayor and the Administration for their commitment for making this happen. I wish it would have been presented a little bit differently, quite frankly, I wish we would have been here, presented the plan, presented the financials with the plan, and then say this is the area and we would like to move forward with this, rather than just have the agreements come and we vote on that. I am supporting this proposal and will do everything in my power to help the Administration and the community move this project forward so we can help meaningfully, the people in our community, which includes all of our families, friends, and neighbors who deal with these issues. I am happy to support it and I want to thank everyone sitting around this table today, who spent the time necessary to have a proper discussion, as well as the community. Thank you.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I just wanted to make sure that after you give your speech that I can amend my motion so that we can correct the typographical error that was caught by Councilmember Hooser. I am going to amend my motion so that we add any other non-substantive errors that the County Attorney can find. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, I really do not know where to start. It is an emotional day already. We spent three (3) hours,

rightfully so. It is amazing how you can get seven (7) somewhat intelligent people on the Council with some really different views, and I respect everybody's position. I have to say that you cannot compare this to open space or any other thing that we do. The fact that we do not have enough money to go purchase an empty lot to have a park, does not cost anybody's life. The fact that we do not have enough money to fund Keiki to Career, and I am only using this because it was brought up, is not going to cost a child their life. We have seen enough...I have seen enough over the years, suicides, attempted suicides, we heard some stories today. Those are my experts, today. No offense to the State employee, but my experts are the people that came here, that lived it, did it, and doing it today, that have children that they are concerned about. Those are my experts. It is not a money issue. It is a priority issue. Mr. Taylor, you talked about your son and do not ever be ashamed of that, I know you said that you are not proud of it, well, you should be proud. Your son ran into trouble, like many of our children, and he successfully completed a program. Why do we not have that for our kids here? Why? Why do we have to send them away? There is no bus stop there. Families cannot jump on a plane and get to Honolulu now, a hundred fifty dollars (\$150) one-way pass, rental car, to go and see their child. How does the child feel? Let me put things into perspective when we talk about money. Transportation, County subsidy, seven point two million dollars (\$7,200,000). Golf Course, one point two million dollars (\$1,200,000) – that is subsidy. Solid Waste, nine point three million dollars (\$9,300,000) from the General Fund. Police and Fire, I mean do we even think to not fund those departments? No, we need it. So, it is not a money issue, because if it was, we would say, "Chief, sorry pal, we can only give you ten million dollars (\$10,000,000), so you do what you have to do," but no, because it is a necessity. A priority. It is not a money issue. We do not run government like a business, in all cases, because obviously, if we did we would have a much smaller police force because we simply could not afford it. We would not have a Hanalei Fire Station because it would not warrant it. The numbers out there do not warrant fully staffing a fire station, but it is our function because it is a priority, not money. Humane Society, eight hundred five thousand dollars (\$805,000). A dog on the side of the road has no problem getting a seat or bed that night, but our child does not. Come on, people. And we are talking about two million dollars (\$2,000,000) on a high-end. I mentioned Zuckerberg and all these rich folks that came over here. Somebody gave us a thirty thousand dollar (\$30,000) donation for the Constitution. Keep the paper and give us the thirty grand (\$30,000). Facebook, I mean, we need to tap that guy. He makes so much money and I hope Mr. Reporter, print that. Mr. Zuckerberg, we need your help. You coming over here, two hundred million dollars (\$200,000,000) is a drop in the bucket, two million dollars (\$2,000,000) a year. What about a fund like that to help our *keiki*? Whoever else...print to all the rich millionaires that live on this island, asking them all, Julia Roberts, proud and now you are spinning it, make another few million, give some of that to the kids. The other islands, they all shut down. Shame on those counties. The County should have stood up and said, "You know what, we are going to do what it takes to keep those doors open, even if we have to reduce the number of beds." Go and explain that to a parent whose child has attempted suicide or committed suicide because of drugs and substance abuse. "Sorry, we could not afford it." Could not afford it, really? Yes, this is an emotional issue. A very emotional issue. I was on the original drug plan committee and we talked about this many years ago, and all I can remember about the discussions is us telling the Administration, "How come we cannot do it?" Us, meaning the Council and Councils of the past saying, "Why? How come? Why did you not do this?" I want to thank Grove Farm; I know my time is up. I want to thank Grove Farm for the wonderful gift. I want to thank the heroes that came here today, testified, and exposed their souls for the cause. I want to thank the Mayor and Administration,

obviously for finally saying, "You know what, we are going to do it. Tough, I do not care...we are going to do it." This is way long overdue. Thank you. With that...

Councilmember Yukimura: I have something.

Council Chair Rapozo: How much time does Councilmember Yukimura have?

Councilmember Yukimura: One minute.

Council Chair Rapozo: Five (5) seconds, Councilmember Yukimura.

Councilmember Yukimura: Okay, thank you. Open space is so important to our kids, Waipa, how many youth are we saving by connecting them to our culture and *‘aina*, and the adolescent drug treatment is going to take care of eight (8) kids a year, it is not going to do all the things we need to do.

Council Chair Rapozo: Thank you. Councilmember Kagawa, you spoke twice.

Councilmember Kagawa: I was going to do the motion.

Council Chair Rapozo: Oh, but your second one was regarding introducing the amendment. Any other discussion? Okay, go ahead.

Councilmember Kagawa withdrew the motion to approve C 2015-166. Councilmember Kualī'i withdrew the second.

Councilmember Kagawa moved to approve, subject to the amendment by the Administration of a typographical error in Section 2.3 of the Memorandum of Understanding (MOU) and any other non-substantive errors, seconded by Councilmember Kualī'i, and carried by the following vote:

FOR APPROVAL:	Chock, Hooser, Kagawa, Kualī'i,	TOTAL – 5,
	Rapozo	TOTAL – 1,
AGAINST APPROVAL:	Yukimura	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 1.
RECUSED & NOT VOTING:	Kaneshiro	

Ms. Fountain-Tanigawa: Five (5) ayes, one (1) no and one (1) recused. The next item on page 3 are claims.

Council Chair Rapozo, the presiding officer, relinquished Chairmanship to Council Vice Chair Kagawa.

CLAIMS:

C 2015-167 Communication (05/15/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jacqueline Lucidarme Yasutake, for veterinary expenses, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualī'i moved to refer C 2015-167 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Chock.

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2015-167 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried (*Council Chair Rapozo and Councilmember Kaneshiro were not present*).

C 2015-168 Communication (05/19/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Julia Evans, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-168 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Chock.

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2015-168 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried (*Council Chair Rapozo and Councilmember Kaneshiro were not present*).

C 2015-169 Communication (05/19/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by James Scott Pellegrine, for property loss, and personal injury, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-169 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Chock.

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2015-169 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried (*Council Chair Rapozo and Councilmember Kaneshiro were not present*).

COMMITTEE REPORTS:

A report (No. CR-PL 2015-11) submitted by the Planning Committee, recommending that Bill No. 2571, Draft 1, be Approved on second and final reading, with amendments made to the Lihu'e Community Plan Booklet (currently dated 2014) as referenced in Bill No. 2571, Draft 1:

"Bill No. 2571, Draft 1 - A BILL FOR AN ORDINANCE ESTABLISHING PROCEDURES, DEVELOPMENT PLANS, AND FUTURE GROWTH AREAS FOR THE LIHU'E PLANNING DISTRICT,"

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo and Councilmember Kaneshiro were not present*).

A report (No. CR-PL 2015-12) submitted by the Planning Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2587 - A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo and Councilmember Kaneshiro were not present*).

(*Councilmember Kaneshiro was noted as present.*)

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2015-18) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

“BF 2015-02 - Communication (05/18/2015) from Budget & Finance Committee Chair Kaneshiro, transmitting the proposed increases to, deductions from, and other proposed amendments (plus/minus sheet) to the Mayor’s Fiscal Year 2015-2016 Annual Operating and Capital Improvement Projects Budgets,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo was not present*).

A report (No. CR-BF 2015-19) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Resolution No. 2015-26 - RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 FOR THE COUNTY OF KAUAI,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo was not present*).

A report (No. CR-BF 2015-20) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2582 - A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 (*Fiscal Year 2015-2016 Operating Budget*),”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo was not present*).

A report (No. CR-BF 2015-21) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2583 - A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 (*Fiscal Year 2015-2016 CIP Budget*),”

Councilmember Chock moved for approval of the report, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried (*Council Chair Rapozo was not present*).

Councilmember Kagawa: Welcome back, Councilmember Kaneshiro, sorry we should have called you earlier. Next item, please.

RESOLUTIONS:

Resolution No. 2015-26 – RESOLUTION ESTABLISHING THE REAL PROPERTY TAX RATES FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 FOR THE COUNTY OF KAUAI: Councilmember Chock moved for adoption of Resolution No. 2015-26, seconded by Councilmember Kualii.

Councilmember Kagawa: Any discussion? Councilmember Hooser.

Councilmember Hooser: I am going to be voting no on this tax rate. It is primarily because approving these tax rates essentially approves a tax increase for the majority of property owners in our County. Even though the rates are not changing, the taxes and the majority of property owners, certainly the majority of people who live in their homes, their taxes will go up. We have not really had that discussion during the budget. As you all know, I attempted to reduce those rates and a couple months ago, attempted to freeze the rates. I will be voting no on this. Thank you.

Councilmember Kagawa: Thank you. I saw a hand from, Matt. Matt, this is regarding the real property tax rates.

There being no objections, the rules were suspended.

(*Council Chair Rapozo was noted as present.*)

Council Vice Chair Kagawa returned Chairmanship duties to Council Chair Rapozo.

Mr. Bernabe: I have a clarification question, I do not know if I will get an answer. Is this just the procedural process to start how you are going to get the next tax rates for this coming year?

Council Chair Rapozo: This is the resolution that will set the tax rates for the next year.

Mr. Bernabe: And so the next meeting, if you want to interject it, you...

Council Chair Rapozo: Today is the last meeting.

Mr. Bernabe: Oh, today is the last meeting.

Council Chair Rapozo: Yes, this sets the rates for next fiscal year. We had that discussion during the budget, it was then in the Committee...

Mr. Bernabe: Yes, I heard some of it, but not all. I just want to go on record as, I do not like the way we figure out our tax rates. The mass appraisal method of evaluation is flawed and I think that you folks should scratch that and come up with a fair system.

Council Chair Rapozo: I agree with you. During the budget, we heard Steve Hunt say that he is...by September, he should be ready to start looking into reform.

Mr. Bernabe: There we go.

Council Chair Rapozo: I expressed my concern that if they are not ready in September, then I am going to be proposing this Council convene a task force that will look into tax reform.

Mr. Bernabe: I volunteer from the public.

Council Chair Rapozo: Thank you.

Mr. Bernabe: Thank you, I just needed some clarification.

Council Chair Rapozo: Any other members of the public wishing to testify?

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any discussion? Roll call.

The motion for adoption of Resolution No. 2015-26 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii,	
	Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	Hooser	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, and one (1) no.

Resolution No. 2015-44 – RESOLUTION URGING HAWAII'S CONGRESSIONAL DELEGATION TO ADDRESS EXCESSIVE CAMPAIGN SPENDING BY PROPOSING AND PASSING AMENDMENTS CLARIFYING THAT CORPORATIONS ARE NOT PEOPLE WITH CONSTITUTIONAL RIGHTS, IN PARTICULAR ELECTORAL RIGHTS, AND THAT UNLIMITED CAMPAIGN SPENDING IS NOT FREE SPEECH

Councilmember Kualii: Council Chair, this Resolution is being put forward by Councilmember Yukimura and myself, and we are considering referring

it to Committee, but I just wanted your advice on Committee of the Whole or Economic Development & Intergovernmental Relations Committee.

Council Chair Rapozo: If we are going to refer it, I am seeing a...was this going to be introduced today?

Councilmember Yukimura: It is an amendment that we want to make.

Council Chair Rapozo: That you want to do today?

Councilmember Yukimura: Yes, or at some point. We thought it would be better for the public to see it with that amendment.

Council Chair Rapozo: Why do you not make the motion to approve...

Councilmember Kuali'i: Okay, and then we will just defer to...

Council Chair Rapozo: And then Councilmember Yukimura can make the motion to amend, get the amendment in, and the public will get to see the amendment. I am not sure why you want a referral, but I think the Resolution makes a lot of sense. Let us start with the motion, Councilmember Kuali'i.

Councilmember Kuali'i moved for adoption of Resolution No. 2015-44, seconded by Councilmember Yukimura.

Councilmember Yukimura moved to amend Resolution No. 2015-44 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Council Chair Rapozo: We are going to have discussion on the amendment.

Councilmember Yukimura: Yes, Council Chair, this amendment will make clear that the case that is being cited is one of the reasons that we need a Constitutional Amendment.

Council Chair Rapozo: And it was unbelievable.

Councilmember Yukimura: It just makes everything more understandable and consistent within the Resolution.

Councilmember Kagawa: I have a question on the reason for the referral, but maybe we should vote on the amendment first.

Council Chair Rapozo: That is fine, and then we can get back to the main motion. Any other discussion? Anybody in the audience wishing to testify on the amendment?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to amend Resolution No. 2015-44 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Council Chair Rapozo: Now we are back to the main motion.
Councilmember Kagawa.

Councilmember Kagawa: Are we referring so that the public can have a week to look at it and provide input or are we referring it because we need resources to answer questions? For me, the Resolution really has no teeth, but it has a reason why this body may want to considering approving it, so I am comfortable with my vote today. However, if public input and disclosure is the reason for the referral, then I will certainly support it.

Councilmember Kualii: It is for public input and some of the makers that came to me initially asking for this have been unreachable in the last week or so, and they are not here today. In fact, my original thought about referring to Committee was to work on that amendment, but since that has been taken care of, I think my motion would probably be a motion to defer and it would come back in two (2) weeks to the full Council.

Council Chair Rapozo: I am inclined to support this today. The additional time and public testimony may change my mind. I have heard absolutely nothing from the public...

Councilmember Kualii: Yes, and I did not even read the Resolution so I mean I do not see a problem with getting support in two (2) weeks.

Council Chair Rapozo: Okay.

Councilmember Yukimura: May I say something?

Council Chair Rapozo: Yes.

Councilmember Yukimura: Chair, this is advocating a pretty long process of a Constitutional Amendment. This is an amendment to the United States (U.S.) Constitution. Once it is passed by two-thirds (2/3) of the houses in Congress, that is both the Senate and the House, then it has to be approved by three quarters of the state legislatures. We actually should take a note about this in terms of making our charter amendments a little bit more difficult to pass, because it is such a big thing when you change the structural governing document. Going back to this, this is a U.S. Constitutional Amendment, and part of the purpose of this is public education so people understand what the issue is and why it is so important. The fact that the Supreme Court has said that corporations are like people, and that campaign contributions are free speech that cannot be limited is really creating a huge change in how our democratic process works or does not work. That is why we wanted to give the public more time to respond to this. It is part of the educational process, and I think there are a lot of people who would want to come and testify.

Council Chair Rapozo: I cannot disagree with you on that. The thought that corporations have no limit, the bottom line is that they can buy politicians in Federal elections. Our State has limits for us, so obviously we do not fall into that category, but a corporation could...no limit, because the Supreme Court ruled that they are a "person" and not a "non-person." It is a great Resolution, and I

do not think I would change my mind, but I am prepared to vote today. Any other discussion? If not...

Councilmember Kualii moved to defer Resolution No. 2015-44, as amended.

Council Chair Rapozo: Hang on. Do we have any public testimony?

Councilmember Kualii withdrew the motion to defer.

There being no objections, the rules were suspended to take public testimony.

Mr. Bernabe: Just for the record, this is one of the issues that got me out of my cave and that is why you see me at your meetings. This issue is close to my heart and I personally have gone with my daughter and got petitions from people, and was part of the people that you just referenced that are not here...I have been texting to try and get them here. If you folks are willing to move forward and pass this, I am pretty sure they are not going to testify, and you folks can move forward. It sounds like you folks understand what I understand about this law, and if people do not understand this, I would love to educate them. This is a very bad law that they passed, by the ruling of the Supreme Court. I do not have anybody to argue with, I do not do good when I do not have anybody to argue with. This is a mechanism to transfer power to governments and to corporate entities. It allows passing of bad laws that harm the Earth. These are corporations that want to do dirty industry so that they can put their little mechanisms on it and I just completely want to support this County in pressing our State as joining the States that are being counted for that Congressional level. Just for the record, the guy from the Big Island his name is Dan Marks. He actually went to Congress and he is the reason they are even counting, so it actually has Hawai'i roots.

Council Chair Rapozo: Thank you, Matt. Any other testimony?

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: There is a quote that is going around, and I am going to paraphrase it, but it is something like, "I will agree that a corporation is a person when Governor Perry, from Texas, successfully executes a corporation."

Council Chair Rapozo: Makes sense.

Councilmember Hooser: I support further referring it and having more discussion. I think it is a very important topic and I think we could have more community here and give it a more robust discussion. I think that is part of our job in terms of civil engagement to help grow these ideas. We can just pass it and be done with it, but I think it deserves more attention.

Council Chair Rapozo: I just want to find someone that opposes it. I would love to hear from someone that thinks this is right. I will suggest that we...because we may end up with people testifying, I suggest we refer it to the Committee. We have a very light Committee schedule next week, so we can spend a lot of time if people choose to come. I will suggest we send it to the Committee. Councilmember Kagawa will not be here next week, but we can deal with the testimony and have the vote at the Council.

Councilmember Kualii moved to refer Resolution No. 2015-44, as amended to Resolution No. 2015-44, Draft 1, to the June 10, 2015 Committee of the Whole Meeting, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any further discussion?

The motion to refer Resolution No. 2015-44, as amended to Resolution No. 2015-44, Draft 1, to the June 10, 2015 Committee of the Whole Meeting was then put, and unanimously carried.

Council Chair Rapozo: Can we get the last Resolution read, please?

Resolution No. 2015-45 – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE KAUAI HISTORIC PRESERVATION REVIEW COMMISSION (*Lawrence Chaffin, Jr., – At-Large*): Councilmember Yukimura moved for adoption of Resolution No. 2015-45, seconded by Councilmember Kualii.

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Resolution No. 2015-45 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: With that, we will take a lunch break at this time before we get into the Bills. We will return at 1:30 p.m.

There being no objections, the Council recessed at 12:20 p.m.

The meeting was called back to order at 1:48 p.m., and proceeded as follows:

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2589) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, SECTIONS 13.1 AND 13.2, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE RECOVERY OF RESCUE EXPENSES: Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2589), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 1, 2015, and referred to the Public Safety Committee, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Councilmember Chock.

Councilmember Chock: I would like to give a real quick introduction to why this is on the agenda. I think it was actually back when Chair Furfaro had asked us to come together around some of the rescues that we were having on the

North Shore, the Nā Pali Coast, and Council Chair Rapozo and I had met with Representative Kawakami and Senator Kouchi to discuss how we can look at the costs and shared-cost. This is the result of that. We have had a lot of discussions on cutting trails to floatation devices, even a bridge I think, but we have taken care of some of those, in coordination with the State, and asked for MOUs and so forth to look at how we can insure that the costs are being attributed properly. This is another measure in terms of that. It is really another layer of building some responsibility to all people, not just visitors, but locals alike, who need to take responsibility for their actions. Accidents are accidents, they happen, weather is unpredictable, but I think that we all need to be cognizant about when we make decisions, I mean, if it is raining for five (5) days, we should know better than to cross the river. It is those kinds of things that we are trying to address within this amendment. Basically, it is asking for good judgement and what we are looking at is Section 13.2 taking out what the current language is right now which is, "Gross negligence," and coming into alignment with what the State Hawai'i Revised Statutes is saying which is, "Intentional disregard for safety." It is really about consistency. You might have read the feedback from the County Attorney which says that...

Council Chair Rapozo: You cannot read...

Councilmember Chock: Oh, yes, I am sorry. I will let you folks ask any questions on that. This is about good judgement and looking at how we can curb our costs and protect health and property. That is it. Thank you, Council Chair.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I would like to thank Councilmember Chock for introducing this Bill and trying to address an issue that has come up frequently even in our last budget, when we heard about the fire helicopter rescues. I look forward to learning more about this and discussing this particularly proposed solution. I am aware that there has been delivered a County Attorney opinion and I want to ask that we get briefed on that opinion. If we could have it scheduled for Executive Session early on so we can at least become familiar with the legal issues. I look forward to the input from the agencies involved and also from the public. Thank you.

Council Chair Rapozo: Thank you. Councilmember Kualii.

Councilmember Kualii: I too want to thank Councilmember Chock for bringing this forward. In one sentence it says, "Emergency rescues at times place County emergency personnel involved in the search and rescue operation in precarious situations that could have been avoided if the individual or individuals adhered to warnings or notices." I hear this a lot from constituents and I think it is important that we address it. I am looking forward to working further on this.

Council Chair Rapozo: Any other discussion? Any public testimony on this? Ms. Punohu.

There being no objections, the rules were suspended to take public testimony.

Ms. Punohu: Aloha. Thank you, Councilmember Chock, for introducing this. As a North Shore resident for many years, doing rescues ourselves of people, and for us the biggest annoyance is Nā Pali, and all those people going over there and causing our personnel and our own people, even me sometimes, I have done

a rescue up there a few times which was pretty scary. We need to also make sure that our tourism industry and individuals that work in the tourism industry are somehow held accountable when it could be traced to their action that led to somebody going to a place and disregarding signage and putting themselves or others in danger. I feel that this is, after forty (40) years in tourism, this is one of our biggest problems. One of the biggest issues on Kaua'i has been a book called, The Kaua'i Tour Guide. I think there was an effort at one time to try to ban this book from our island completely. I think a lot of what happens lies in this area, but I thank Councilmember Chock for bringing that particular language. I love that sentence that states that kind of responsibility and how it is written. That brings it home to a person more, I think, than any other way, and it helps with liability against the State and County because a lot of times when visitors get hurt, the first thing they think about, after they get rescued of course by our personnel, is how they can sue the State or the County because the signage was not there. Mahalo for that and I just wanted to bring up that one issue, and thank you very much for your effort.

Council Chair Rapozo:

Thank you. Matt.

Mr. Bernabe: I support Proposed Draft Bill (No. 2589) and I personally have saved many people, both on the ocean side of Kaua'i and the interior side of Kaua'i. I want to point out that at one time Nā Pali, itself, was a hunting area and it still is, but the pressure from the tourist industry has forced the State to go against their own rules and allow people...because by law, you are supposed to be a licensed hunter, but in there I do not believe you need to wear orange because I think it is dog and knife, and archery. But because it is a tourist thing, we need to pressure the State to enforce their own jurisdiction or make them pick up the bill, right. Whoever's trail that is should be picking up the bill, and I agree locals too need to be educated, and sometimes locals themselves get in trouble. Just like we have the video at the airport, we need to have signs, disclaimers, and languages in the law that nullify us from liability. If you jump into a tide pool and you cannot see the bottom, you break your neck, the County should not pay three million dollars (\$3,000,000). That is common sense. I always said when I was a skateboarder, I cannot remember any skateboarder ever breaking their ankle and then suing wherever they were skating. In fact, at the Supreme Court, they tried that and they said that once you bought the skateboard, you were engaged in an activity that you know was inherently dangerous, so therefore you cannot sue the skateboard company. If you are jumping off the cliff with your hand glider and you die while landing, not only are you responsible for that bill, but you are going to jail if you live. I think we should pressure the State and create that language, and I support this one hundred percent (100%).

Council Chair Rapozo:

Thank you. Anyone else?

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The way that the proposed bill is written, it gives the authority for the County to go after anyone that causes that person...it says, "cause or contribute to the placement of an individual or individuals in a situation of distress or peril, so the guidebooks in my opinion as reading this could be subject to the costs if in fact they are promoting a dangerous site being not dangerous. I lost two (2) very close friends of mine years ago on O'ahu, they were police officers. There were some people that needed to be rescued from the mountain, it was horrible conditions, the Fire Department said, we are not going up, the Fire personnel said that it was too risky. The Mayor of course said you go send somebody, so two (2) officers volunteered to go up and then the helicopter crashed. All three (3) of them died

because some people felt that they were experienced hikers and they were not. This is long overdue, Councilmember Chock, thank you very much for following up and getting on this. We will deal with the legal issues as we move forward, but this is one that involves...you talk about political will. Personally, I do not believe our residents should pay, they pay property taxes, so we fund the helicopter, but I definitely believe the visitors should pay. If they get into a car accident, they pay for the ambulance, and this is something like I said, is long overdue and many jurisdictions already do this. We will see how this thing goes. Staff, could you note Councilmember Yukimura's request for an Executive Session? Maybe we can have that at the next Council Meeting so we can be briefed and also I would like to see that opinion be released at some point to the public because I think it is important that the public gets to see the legal opinion. Any further discussion? If not, roll call.

The motion for passage of Proposed Draft Bill (No. 2589), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 1, 2015, and referred to the Public Safety Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Councilmember Kaneshiro was noted as being recused from Bill No. 2571, Draft 1.)

BILLS FOR SECOND READING:

Bill No. 2571, Draft 1 – A BILL FOR AN ORDINANCE ESTABLISHING PROCEDURES, DEVELOPMENT PLANS, AND FUTURE GROWTH AREAS FOR THE LIHU'E PLANNING DISTRICT: Councilmember Kagawa moved for adoption of Bill No. 2571, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Councilmember Chock moved to amend Bill No. 2571, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 2, seconded by Councilmember Kagawa.

Council Chair Rapozo: We will wait to see what the amendment looks like. Councilmember Chock, would you like to explain your amendment?

Councilmember Chock: Yes, Council Chair, this is typographical in nature. If you look at the amendment quotations under: ["] Article 5. ["] Līhu'e Community Plan Implementing Ordinance["] and then under Section 10-5.2, again typographical in nature. We need to take out the capital "G" out of the word greater and keep it as lowercase. Those are the two (2) amendments on this.

Council Chair Rapozo: Any discussion on the amendments? This is purely housekeeping. Any public testimony on the amendment?

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to amend Bill No. 2571, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 2 was then put, and unanimously carried.

Council Chair Rapozo: We are back at the main motion.

Councilmember Hooser moved to amend Bill No. 2571, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 3, seconded by Councilmember Kualii.

Councilmember Hooser: This is more grammatical, it does not change the intent or content whatsoever. It comes from essentially a cut and paste from the amendment on the South Kaua'i Community Plan, and so it deletes the word, "these."

Councilmember Yukimura: Was there a second?

Council Chair Rapozo: Yes, there was a second.

Councilmember Hooser: So it is not substantive in nature, in my opinion.

Council Chair Rapozo: Any discussion? Councilmember Kagawa.

Councilmember Kagawa: I have no problems with this amendment.

Council Chair Rapozo: Any public testimony?

Mr. Taylor: If I have not seen the amendments, how can I speak on them?

Councilmember Kagawa: He explained it in words.

Council Chair Rapozo: Are we passing out the amendments? Okay, let us take a three (3) minute recess so we can pass out the amendment. I apologize for that Mr. Taylor.

There being no objections, the Council recessed at 2:01 p.m.

The meeting was called back to order at 2:03 p.m., and proceeded as follows:

Council Chair Rapozo: Did you want to testify on the amendment, Mr. Taylor? It is taking out the word "these."

There being no objections, the rules were suspended to take public testimony.

Mr. Taylor: The first amendment from Councilmember Chock, I agree with the changes in that and Councilmember Hooser's amendment, I certainly agree with that. I hope you will move forward with them. Are we going to have time to talk about the whole Plan? Okay.

The meeting was called back to order, and proceeded as follows:

The motion to amend Bill No. 2571, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 3 was then put, and unanimously carried.

Council Chair Rapozo: Now we are back at the main motion. Is there anyone in the audience wishing to testify on the main motion?

Mr. Taylor: The Līhu'e Community Plan is the beginning of a larger planning process of the County. I am very concerned after recently attending five (5) of the workshops on the General Plan and I think there are three (3) words that are being used throughout the planning process. If we are going to continue down the path that is currently being laid out, we should eliminate from all of the plans: sustainability, carrying capacity, and sprawl. The human population living like we do has exceeded the carrying capacity of this island. Our ecological footprint is the measure of the load imposed by given population on nature. It represents the land area necessary to sustain current levels of resource consumption and waste discharge by populations. By a picture form, it shows the built community as much larger than the natural economy or areas to be dealt with. The planning process is moving forward with a sustainability decision based on a three-legged stool putting the economy and the environment on equal basis. There is absolutely no way in the world that you can justify that. If we are going to start the planning process with bad information to start with, the end product is going to be fowl. What should be used instead of a three-legged ladder, you have the environment, you have the society, and you have the economy. It is a very different situation. Unfortunately, part of the discussion goes back to the State's 2050 plan, which used the three-legged stool. In reality the State's 2050 plan is not sustainable itself, so we have to get over these humps before we can continue moving down the planning process. The first law of sustainability is, it is not possible to stay in population growth or growth in the rate of consumption of resources. These are issues that you cannot argue with them, they are a reality. If there was any place to argue, we would not be having all of these economic environmental problems around the world.

Council Chair Rapozo: Is there anyone else that is wishing to testify? Ken, you need to come back. There is another person who would like to speak.

Ms. Punohu: Because Līhu'e is our main center of commerce and government, I think it is very important that...I have not read the entire Plan so I am not going to speak intelligently on the whole thing, but I am just going to speak from my personal opinion on making things more accessible for people to walk and bicycle. The handicapped is also another concern. For them to be able to get from building to building. When I was reading about the Plan, I thought there would be this kind of a plaza and be able to walk in between traffic and all of that. My other concern is that on the elderly and handicapped should be able to access the buildings that they need to because they cannot walk that far. However, I also hope to see a better biking lane. I am an avid bicyclist and I would bring my bicycle more often to Līhu'e, but it is really dangerous for me to ride even in the regular bicycle lanes in Kapa'a and it would be so much easier for me to bring my bike into town and be able to do all my business in town with proper bike lanes. I think that encouraging more walking and biking areas, are really important to pull everything together and tie everyone together. I do not know how you would do it because I am not a planner, but how can we also keep buildings accessible for the elderly and handicapped to access the buildings? That is my only comment at this time...oh, and greenery. I think greenery is very important. Please keep the appearance of a concrete slab down as

much as we can. I just came from O‘ahu and it seemed very “concrete slabbish” to me. Thank you.

Mr. Bernabe: I already spoke extensively on this issue. I will just reiterate what I would like to see kept in the discussion which is water infrastructure. I will always go with water infrastructure and gearing to real farming. Before you know it, with houses and businesses, you are going to end up right up to the forest line and you are not going to have anything left to plow, unless we are growing maile, that can make money too.

Council Chair Rapozo: Anyone else wishing to testify? If not, Ken.

Mr. Taylor: We talked a little bit about sustainability, carrying capacity, and sprawl. What we are doing to ourselves even though we would like to say that everything is centered around these little communities. Anything outside of this center of commerce is sprawl. I just ran some numbers in comparing Kaua‘i with Portland, Oregon, and do not get excited about the population number, but I am not advocating five hundred and fifty-six thousand three hundred seventy (556,370) people on Kaua‘i, but that is the population of Portland. Portland comprises an area of about a hundred forty-five (145) square miles. Kaua‘i’s population is seventy-two thousand (72,000) and is comprised in an area of about seventy-five (75) square miles. Portland is two times larger in the land area than Kaua‘i, and has a population of seven point seven (7.7) times greater than Kaua‘i. Used as a comparison only to show how sprawled we are. Seven times greater population in an area only twice as large as our built environment area on Kaua‘i. We cannot continue that way. We can no longer afford the luxury of sprawl. Our demographics are shifting in dramatic ways, our economy is restructuring, and our environment is under increased stress. We cannot shape Kaua‘i’s future successfully unless we move beyond sprawl. Sprawl equals traffic. Traffic equals a need for infrastructure. Infrastructure equals the need for money. Money equals something the County/State does not have. Why do we continue to support sprawl? Thank you.

Council Chair Rapozo: Thank you, Ken. Anyone else wishing to testify?

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? If not...I knew that would get the hand to go up. Councilmember Yukimura.

Councilmember Yukimura: I think this is a landmark occasion and a big step forward in long range planning. It has been a long time since a community plan has been approved. In fact, the last Līhu‘e plan was approved about thirty-five (35) years ago, so it is really time and I want to thank and commend the Planning Department and Planning Director Mike Dahilig for moving this project along and doing it in a very excellent way. I love the change in name. They are no longer called development plans, but they are called community plans which I think better reflect what we want them to be. I think the outreach was excellent. The data gathering was really revealing as we saw even just with the designation of important agriculture lands in Līhu‘e, that was very revealing to me. Data can be very powerful and this long range planning process enables us to gather and look at data. Besides the community outreach, the input and cooperation of the input was pretty good. I want to commend, congratulate, and thank the Planning Department, the Planning Commission, staff, and consultant. I do want to express one very big disappointment

of mine for the record, that the community plan is not a land use and transportation plan. In this day and age I believe best practice requires that our land use plans be both a land use and a transportation plan. I see this as important as moving toward form based codes. It is a critical connection that we are missing. Without traffic and land transportation being an articulated component, the impacts are huge of having a transportation component or not having a transportation component without a traffic circulation plan. We will not be able to solve our traffic congestion and without being able to solve our traffic congestion, those are huge implications for the economy for visitor satisfaction, community willingness to accept growth, functionality of businesses and individual lives, and environmental impact, and implications for the health of our community. I also believe that it leads to misuse of public funds because we will not get the biggest bang for our taxpayer's buck. If we did a traffic circulation plan, and then showed how a *mauka* bypass was needed and justified, that would be one thing, but without doing an overall plan, I am not convinced that we are proposing the best way to use our land transportation infrastructure moneys. I hope that will turn around soon because that will complete our efforts to achieve good long range planning.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Chock.

Councilmember Chock: Thank you to the community, the CAC, for all the hard work that they put into this Plan. Lea, our Planner, who has done a lot of work on this, and the Planning Director, and I also want to acknowledge Councilmember Yukimura, I know that it is often times she takes down roads or paths that we do not want to go, but I think it is because of her that we get a better product. Ultimately, I know this is a guide for moving us forward, the bypass road is still somewhat of a concern for me and its impact on development and what we talk about in terms of sprawl. I trust that the process will reveal more of the direction we want to and need to go as an island. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I want to thank Planning Chair Mason Chock who as I said in Committee, enabled all the different voices to be heard, and I also want to acknowledge our staff person Christiane Nakea-Tresler, who had to track the numerous amendments. It was quite an effort and thanks to the good leadership and also to the great staff backup, as well as the Planning Department, staff, and consultant. I do think we have a good Plan and that the Council's policy input has been incorporated.

Council Chair Rapozo: Thank you. Any other discussion? If not, I will just echo the *mahalo* to the Planning Department, Planning Commission staff, our staff, their staff, Mason, JoAnn, Gary, KipuKai, Ross, not Arryl because he did not participate. Roll call, please.

The motion for adoption of Bill No. 2571, Draft 1 as amended to Bill No. 2571, Draft 2, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kualii, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Bill No. 2582, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 (Fiscal Year 2015-2016 Operating Budget): Councilmember Chock moved for adoption of Bill No. 2582, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present from the public to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Let us wait for the Budget & Finance Committee Chair to come in.

Councilmember Kagawa: I have a suggestion.

Council Chair Rapozo: Sure.

Councilmember Kagawa: Can we go to the last item and then take the budget last, please.

Council Chair Rapozo: If there is no objection. That is actually a good suggestion being that we have members of the community. The Administration can wait. Let us do that, can we call the next item?

There being no objections, Bill No. 2587, Draft 1, was taken out of order.

(Councilmember Kaneshiro was noted as being present.)

Bill No. 2587, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS: Councilmember Kualii moved for adoption of Bill No. 2587, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

Council Chair Rapozo: Do we have any registered speakers?

Mr. Bernabe: I have a hard time hearing what she is saying.
What number are we on?

Council Chair Rapozo: Oh, okay. I am sorry. We have to make her talk louder.

Mr. Bernabe: I am a little deaf on one side.

Council Chair Rapozo: Yes, me too. Okay, what we did was we have the two (2) budget items. We have the Operating Budget and the CIP Budget. Those are bills that we have to pass today and then the last item on the regular agenda is the B&B (Bed and Breakfast), or the Homestay Bill. Because we can have the discussion on the budget later, and we have members of the public here for the Homestay Bill, we are going to take that out of order.

Mr. Bernabe: I am on track. Thank you.

Councilmember Yukimura: Council Chair, I want to say that we have some amendments coming up and we need the Planning Department here.

Council Chair Rapozo: I apologize members of the public, we will take the amendments first so that you will have an opportunity to testify on the amendment should they pass.

Councilmember Yukimura: And also call Planning, staff.

Council Chair Rapozo: Planning is here, I just saw...

Councilmember Yukimura: They left.

Council Chair Rapozo: Well, I have not seen them yet, Anne, so you get the amendments at the same time or shortly after we get them. Thanks to the Sunshine Law. I know you all think we all work in the back room trading off things, but the reality is we get the amendments here for the first time at the meeting, and it does cause some problems as well. We did get a motion, right? Is there an amendment? Did you want to have Planning here first? Unless we have more questions for the Planning Department, which I do not think we do, but why do you not introduce your amendment.

Councilmember Yukimura: I actually have two (2), shall I circulate both of them?

Council Chair Rapozo: Please, just circulate both, but introduce one. We will do one at a time and make sure the public gets a copy of it as well.

Councilmember Kagawa: Council Chair?

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I know Ken and Ernie are here and maybe thinking, we skipped theirs, but I think every member has five (5) to ten (10) minutes of speech and I do not think the homestay folks want to hear our speeches. They want to know what we are going to do with the homestays.

Council Chair Rapozo: I do not want to hear it either, but I have to. Are we ready or do we need some time?

Councilmember Yukimura: I can explain now, Council Chair.

Council Chair Rapozo: Yes, let us start with your floor amendment number 1.

Councilmember Yukimura: Floor amendment number 1 (See Attachment 4) would reinstate guest house as a potential homestay, but it has some severe restrictions: "provided that the guest house was permitted prior to the date of enactment of this ordinance and used as a homestay prior to the date of enactment of the ordinance and where the homestay guest house is on agriculture zoned land, the owner-occupied dwelling unit must be part of a bona fide farm."

Council Chair Rapozo: First of all, I think there is a typographical error. In the, "provided that the guest house was permitted prior to the date of enactment of this ordinance and used as a homestay prior to the date of enactment", should be "of this ordinance". It is minor, and we can just write...

Councilmember Yukimura: ..."prior to the date of enactment of this ordinance and used as a homestay prior to the date of enactment of this ordinance and used as a homestay"...

Council Chair Rapozo: You are missing "of".

Councilmember Yukimura: Where? Between what and what. Oh, "enactment of", I see, yes.

Council Chair Rapozo: Minor.

Councilmember Yukimura: No, it still is important.

Council Chair Rapozo: What about the requirement for the special permit for having overnight accommodations on agricultural land?

Councilmember Yukimura: That is a State law that is in effect...

Council Chair Rapozo: Yes, you basically took out the requirement to follow State law, and that I cannot support.

Councilmember Yukimura: It was not the intention to do it, but we cannot...it is in an impact. We can not require it, it is required by State law.

Council Chair Rapozo: But that is what you are doing. You are saying basically...

Councilmember Yukimura: Well maybe we can have an attorney...is Ian here?

Council Chair Rapozo: And to say that we cannot do it...we do it now and have ignored that State law in the past, so I think that needs to be clarified.

Councilmember Yukimura: Okay. I certainly did not mean to...because I do not believe we can ignore it. It is a law and it is a requirement no matter what.

Council Chair Rapozo: Any discussion on the amendment?
Councilmember Hooser.

Councilmember Hooser: On that particular aspect, I think that just because we are not explicit on the farm/agriculture, it does not change the State law, so if we were silent on the matter, State law still applies.

Council Chair Rapozo: Well the problem, Councilmember Hooser, experiences told me because we were silent on that in the TVR (transient vacation rentals) debacle, we have many TVRs that were granted permits on agricultural land without the special permit from the State, because they went specifically with the County ordinance. That is fine...yes, technically you are correct. I just feel better if it is incorporated in the County's ordinance then there is absolutely no excuse...

Councilmember Yukimura: Can we have Planning up?

Council Chair Rapozo: Is there any other discussion before we suspend the rules, amongst us, regarding this amendment? Councilmember Chock.

Councilmember Chock: If we can strengthen it with the verbiage, let us do that.

Councilmember Yukimura: Strengthen what?

Councilmember Chock: Strengthen the verbiage by including it in, more specifically, I am not sure, we will just have to work on it. I do have a question just one bona fide farm, if you could explain that further to us. If there is a way for us to navigate through that.

Councilmember Yukimura: Bona fide farm, I think needs to be developed as we develop the comprehensive law regarding B&Bs or homestays. It is the million dollar question, if you will, in a lot of things. What is bona fide farm for an agriculture dedication? What is bona fide farm for farm dwelling? And it is something that we have to...what is bona fide farm for farm worker housing and we have to get our whole agriculture land regulatory system in order because it is a mess right now. The intention is that it is not just a couple of papaya trees, it is a real working farm. I believe that language is even in State law – working farm.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Along the same lines, I am going to suggest that we say a bona fide farm as defined in the agriculture dedication section...as defined in the farm dwelling agreement...just to get some definition. Whatever definition they are using, we can use the same for here. I am not sure which one that would be, but...

Council Chair Rapozo: That is actually a good idea. As far as the other...my concern, Peter just showed me the general provisions of homestays, so I believe that is sufficient. As far as the special permit, because the general provisions cover all the...so we are fine. I am okay.

Councilmember Yukimura: Alright. Can we have the Planning Department...

Council Chair Rapozo: Can we have somebody work on a bona fide definition. Mr. Trask, is that something you can...or staff...

Councilmember Yukimura: Peter Morimoto.

Council Chair Rapozo: Planning, can you folks come up?

There being no objections, the rules were suspended.

Councilmember Yukimura: Is it true that we have allowed vacation rentals without special agriculture use permits on agricultural land? Have we allowed vacation rentals on agricultural land without a special use permit?

Council Chair Rapozo: Let me ask you this question because I think it is easier to answer, Councilmember Yukimura, real quick.

Councilmember Yukimura: Okay.

Council Chair Rapozo: How many permits have we issued for overnight accommodations on agricultural land? More than one (1) hand?

Councilmember Yukimura: TVRs.

MICHAEL A. DAHILIG, Director of Planning: I would say between four to five dozen.

Council Chair Rapozo: Four to five dozen?

Mr. Dahilig: Yes.

Council Chair Rapozo: Okay, so there is a bunch that do not have...

KA'ĀINA S. HULL, Deputy Director of Planning: To clarify, that would be TVRs as opposed to homestays, yes.

Councilmember Yukimura: Just to clarify, you said four to five dozen which is like between forty-eight (48) and sixty (60) units. TVR units have been granted permits...have they been grandfathered in?

Mr. Dahilig: They have gone through as prescribed by Ordinance No. 904, I believe, the State 205 special permit process in order to effectuate and validate the non-conforming use certificate.

Councilmember Yukimura: Right, so with non-conforming use, it indicates that they have been grandfathered in.

Mr. Dahilig: At least from a County law standpoint, but the Ordinance prescribed that they have to obtain a special permit as well, and so that process was conducted by the Planning Commission a couple years ago where they issued...

Councilmember Yukimura: Okay, so you cannot have a non-conforming use permit without a special use permit? You cannot operate under just a non-conforming use permit?

Mr. Dahilig: (inaudible) agriculture lands.

Councilmember Yukimura: Yes, okay. These are TVRs, they are not homestays.

Mr. Dahilig: That is, I believe, is correct.

Councilmember Yukimura: We do not have a grandfathering problem with homestays because they always had to have a permit.

Mr. Dahilig: That is our position.

Councilmember Yukimura: But now we are talking about how we would allow them.

Mr. Dahilig: Based off of the proposed amendment, I believe that is what you are...from a policy standpoint, is something to propose as an amendment during the legislation.

Councilmember Yukimura: Well without this how will you allow some longstanding agriculture homestays to get permits?

Mr. Hull: In addition to the use permit process which was required by the County, they go through the special permit process which is a requirement from the State...

Councilmember Yukimura: But if you do not allow a guest house and they are using a guest house, then how would they be allowed to get a homestay permit if it is in a guest house?

Mr. Hull: If they are operating illegally right now with a guest house, and this body takes action to remove guest house from the definition, then indeed there is no venue for them to apply to utilize their guest house for the transient accommodations. Will that deny them the opportunity to apply for a homestay application, no, they would just have to fold that operation into the actual primary dwelling.

Councilmember Yukimura: Into their house, but what if they have been using long term unit as a guest house and like others who have been in their house long term who are now applying through the permit process, who are part of the applications that you have accepted, they would not have recourse. Those who have homestays that have been in guest houses for many years. They would be out.

Mr. Hull: The ones that have been accepted are accepted under the existing definition and therefore they have their public hearing scheduled, but I think you are speaking to the ones that applied after the Council takes action and should the Mayor sign.

Councilmember Yukimura: Then I want to have our County Attorney, please.

Council Chair Rapozo: I have a feeling that you will be there for a while.

Councilmember Yukimura: Jodi, if this Bill passes into law, would this homestay definition not apply in any case that has not yet been approved?

JODI A. HIGUCHI SAYEGUSA, Deputy County Attorney: I think in terms of a vested rights or zoning estoppel sort of analysis, I think there is no discretionary action. However, there is still...

Councilmember Yukimura: What do you mean there is no discretionary...

Ms. Sayegusa: There is no approval. It has not, at this point, been approved by the Commission. I think there could be an argument made that the applications that are in, but have not been approved, and have not gone through the

whole process has to be subject to this definition, however, in Hawai'i the Courts have used sort of a blended approach not just in terms of vested...looking at vesting. They look at it in terms of equity.

Councilmember Yukimura: But how can you argue...

Ms. Sayegusa: I would say that it is a matter of how to approach it in fairness. I think if the Department's approach is to apply the past...the current definition that is on the books, for those applications that are in, I think that there is a good argument to support that also in terms of equity, the fairness to those applicants that are kind of going through the process.

Councilmember Yukimura: How would you argue fairness for someone who is not on that list of accepted applications, except for that is totally similar in circumstances, has been using it for a long time, has been using a guest house, has been using it as a homestay, and the only difference is they have not applied?

Ms. Sayegusa: I can certainly understand their position, but at the same token, as the Department has expressed at the last hearing, the use process is there for the purpose of getting the input from the neighboring properties. It is there for a purpose, for those uses that are heightened uses within neighborhoods, so that process needs to happen.

Councilmember Yukimura: We are not arguing that the process would not happen. We are just arguing that they are going to get different results, not based on community input, but just on when they applied even though the people who have applied before the law takes effect do not have any approval and it is totally discretionary so that they cannot argue that they are guaranteed approval.

Ms. Sayegusa: I also want to point out that the Commission, regardless of the exact definition; they can impose conditions to address compatibility through the use permit process, which may be in line with the current definition.

Councilmember Yukimura: But we are not talking about...look you are saying that if we do not allow guest houses in this law, that the Commission can allow it in a guest house at their discretion?

Ms. Sayegusa: No, I am saying that if the current...if the current definition of homestay is applied to those that are in the door at this point, they can impose conditions to address any compatibility issues or not allowing guest houses to be used.

Councilmember Yukimura: We are not talking about that. We are talking about putting guest house back in and we are not talking about compatibility issues here. So the question is...if we do not allow guest houses under this definition, can the Commission on its own discretion...

Ms. Sayegusa: No.

Councilmember Yukimura: ...allow guest houses?

Ms. Sayegusa: I am sorry...are we talking about the ones that are already in, those applications that are already in or...

Councilmember Yukimura: And are not in...both of them, how do you treat them fairly?

Council Chair Rapozo: Let me get some clarification, the Bill that was passed out of the Committee was cleared that this only applied to applicants after the Bill...or it became an ordinance, so the people that are in the door are not subject to this ordinance. Right?

Ms. Sayegusa: Yes.

Council Chair Rapozo: I mean that is what we spent a lot of time on at the last meeting in the Committee.

Ms. Sayegusa: It also clarified...what is on the books right now, there is the new application, so that is the clarifying distinction within the language.

Council Chair Rapozo: Right, if the application was accepted by the Planning Department prior to the Bill becoming an ordinance, then they are under the old rules. Am I correct? And that the only applications that will be affected by this ordinance are the ones that are accepted after the Mayor signs the Bill.

Ms. Sayegusa: Yes.

Council Chair Rapozo: Councilmember Yukimura, your question as it relates to the post, when it becomes an ordinance, I think she is asking after this ordinance passes and the law says you cannot have a guest house, can the Commission...

Ms. Sayegusa: No.

Council Chair Rapozo: You cannot. I am not going to answer for you, but I mean...

Ms. Sayegusa: I was getting a little confused with the questioning.

Mr. Hull: To further add to that, the Commission will be afforded the opportunity because the Department will have to stop the application...

Council Chair Rapozo: Because it would not be accepted.

Mr. Hull: It would not be accepted, correct.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: And how is that fair?

Mr. Dahilig: We had the equity discussion at the last Committee Meeting concerning what the Council felt was equitable and then we brought to the table our administrative approach in terms of how we are going to implement the proposed law, if it should be adopted. I think what it is in effect as the Deputy County Attorney mentioned both at this meeting and the last meeting, that it is based on a blended approach where you are looking at...when the law has

passed, but also what is equitable in terms of implementation. We have already publically made our position clear in terms of how we are going to be implementing the law and with respect to the guest house, if you are trying to reinsert the guest house proviso back into the definition of the Bill, that we would of course adhere to whatever definitions and whatever materials are needed to support that definition. At the end of the day it becomes a policy decision based off of what we are going to be implementing here to answer your question concerning what is equitable and what is not.

Councilmember Kagawa: I am going to ask a question about being fair. How is operating a B&B in a residential area without getting a permit fair to the residents that do not do that?

Mr. Dahilig: I will say equivocally that if you are operating something without abiding by the law that that is not fair.

Councilmember Kagawa: Basically, to do that operation, you need a permit, right?

Mr. Dahilig: Yes.

Councilmember Kagawa: Same thing goes for a TVR. Just because they heard that the neighbor has a TVR operating next door to them without a permit, and they go and open it, is that fair? No. Let us just remember that fair goes both ways. Thank you.

Councilmember Hooser: Since we are going down that path, and asking what is fair and what is not fair. I think without much exaggeration, in driving down any neighborhood on this island and seeing activities that are happening that are probably not conforming into law...There are people running mechanic shop, businesses out of their garages, or people painting cars out of their garage, people running all kinds of businesses out of their home, there are sheds added on, there are all kinds of things. What is fair about that? The County does not go through those neighborhoods with a pad or paper and cite every single person in a row. I have talked to...perhaps not yourself about this, but have talked to others in the County and I was told that it is complaint driven. That we do not have time to go and deal with all these people, but when we get complaints, we deal with it. What is fair about that? Why is the law not equally applied across the board to all communities and businesses operating within residential areas that do not have permits?

Mr. Dahilig: I will partially agree with your perception. At the end of the day, there are a myriad of laws that are under my jurisdiction that there are violations, that if we had someone with a clipboard go down row by row, house by house, you could find something. But at the end of the day it becomes an issue of prioritization, it does. While by practice in many cases, we tend to respond to those types of situations on a complaint driven type of basis, what has been very clear both in appropriations to our Department as well as in laws that have been passed that this particular issue by the policymakers is wanting our Department to focus more attention on it. To oblige that policy objective, we have taken additional resources that were earmarked specifically for these issues relating to transient vacation rentals and pushed more effort and resources towards that enforcement activity. It really is a consequence at the end of the day, yes, if I had two hundred (200) zoning enforcement officers, I could probably cover everything, but I have only

so many. If you look at my inspectors, forty percent (40%) of my inspector force is specifically earmarked for vacation rental enforcement. That is a priority and that is where we have taken that approach.

Councilmember Hooser: Please do not get me wrong, I am not encouraging the Planning Department or the County to go after every single little infraction. I believe a certain amount of freedom, if you would, and if there is somebody next door and they are not bothering me, I do not care that much. You mentioned the policymakers which is us, and I frankly could be wrong, but I do not remember this body passing any resolutions or passing any bills asking you to go after homestays. I remember distinctly TVRs, distinctly those strong conversations, and pleased to see that you went after them, but I do not believe this policymaking body ever gave you, your Department, or the Mayor instructions to go after homestays.

Mr. Dahilig: I will agree with that statement, but with the caveat that what we brought to the body as our issues as it relates to homestays is that you have vacation rentals trying to hide as homestays.

Councilmember Hooser: Right.

Mr. Dahilig: And to follow through with enforcement and to actually make sure that we have completed our objective to shutdown transient accommodations in residential units that should not be operating as such, we needed to dig deeper and we needed to ensure that we did an enforcement follow through. In response to these individuals that now have invaded this realm of homestay operations when it was not traditionally operated as such, but in the attempt to try to preserve some type of transient usage because of the rental rates, they have moved down that path. We have had to go and chase them down that path. We do not want any more people going down that path, so unfortunately in the previous discussions Councilmember Hooser, we do not look at these actions as something in a box. There is a human element behind all of these things and we had to make a very tough call whether or not to follow through with our commitment to shut these illegal transient vacation rentals down and this is where they were hiding. We follow through as such and we figured making the immediate call to enforce and coming to the Council saying this could be a persistent problem, we need the policy help on it, that is what you are seeing here, but we made the call to stop the bleeding first, not have these people establish these homestay uses and let them run versus going after them immediately and shutting them down immediately. It gets to that issue again of equitable enforcement because the first thing those folks did was pointed at the folks that I believe the body has been saying or legitimate homestay operations saying, "Why are you not enforcing against them too?" That is where we get caught and unfortunately that is where the "Siamese twin" situation comes in here.

Councilmember Hooser: I agree for the need for reasonable regulation. It is just the manner which has been implemented is what is causing me concern. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: The question that Councilmember Yukimura is bringing up about fairness is imbedded in your response in terms of legality. So what we are setting forth right now which is sort of this judgment before and after, it sounds like it is supportive, we can run with it and we will be okay. Is there

something that will support that? Is there case law to support that or is it your opinion that the road we are moving down is the right road to move down?

Ms. Sayegusa:

And just to clarify the road moving...

Councilmember Chock:
or ordinance.

In terms of defining pre and post-applications

Ms. Sayegusa: It is really fact specific, a case-by-case analysis of this application and what did he or she rely on and what kind of expenses did they expend or rely on. With that aside, if the Department is choosing to apply it this way and to apply the past...the current definitions to the application on the books now, then I think that is...

Councilmember Chock:

It is okay?

Ms. Sayegusa:

Yes.

Council Chair Rapozo: I want to follow-up on Councilmember Hooser's discussion regarding the enforcement. At the end of the day, you are going to respond to the complaints. You may have a huge chunk, legal or illegal operators, whether they are TVRs, B&Bs, mechanic shops, whatever. Some may go undetected because they are not causing a problem for the neighbors, but I sent over numerous citizen complaints for a gym, non-TV, B&B, commercial practices on properties, and you folks have responded. Obviously, I agree with Councilmember Hooser, we are not expecting you to go down with a clipboard in every single dwelling unit, because if it is not impacting your neighbors, I cannot expect you folks to know, but I do expect you folks to respond to a complaint driven issue. I think the public expects that. For the operators out there that have gone below the radar screen and they do not have permits and they have not been caught, you know, they have not been caught. It is like you are not catching every speeder on Kūhiō Highway. You could have a cop there and check every single car for a drivers license, insurance, registration, is that feasible, obviously not. Councilmember Yukimura.

Councilmember Yukimura: You folks sent us the Bill with guesthouse in there. You said that you did not have objections to taking it out even though people who are similarly situated, they have guesthouses, they have been using them for homestays, they have not been bothering their neighbors, one will be allowed and one will not be allowed depending on when they apply. My question is do you have any...and this proposal now is much more limited than the guesthouse provision that you sent us. It really limits it to people who had a guesthouse permit, they are not going to come in now for a guesthouse permit, and they have also been using it for a homestay without any complaints or you will still get to process the complaint issue, right, if you allow them to apply? Do you have any objections to this proposal to put it back in a more limited way?

Mr. Dahilig: Let me just frame our response at the last meeting concerning the amendment to take it out. It has been a persistent problem for our Department. There has been situations where people have split out the guesthouse and had that thing operate wholly and independently from the main house. That runs a foul of what the spirit of the homestay definition was meant to do and what the vision of the policy standpoint of what homestays are meant to be operated as. In particular let me give you an example, if you have a lot that is two thousand (2,000) acres and you have one primary residence that is down by the road,

and then a quarter mile inland you have a guesthouse, those are the kind of actual situations that give us cause to say, "Well, is this really operating as one dwelling." That is a function of a longstanding definition within the Comprehensive Zoning Ordinance (CZO) relating to allowing guesthouses by policy. Going back to your question, I would say again that it really is a policy question at this point for the body to direct us on where the law should go. Do these definitions assist the analysis of the Department in whether or not to grant a use permit and a special permit? It does assist. The language in the second part that you have underlined there would be stuff that the Planning Commission would more holistically take into account versus looking at it from a definitional type of situation, like bona fide farm. All this does is it provides the parameters by which the Planning Commission and our Department is instructed to provide an analysis through the use permit process on determining whether or not: 1) it was used as a homestay prior to the enactment of the ordinance, 2) that the guesthouse was permitted previously; and 3) it is part of a bona fide farm. Those findings have to be incorporated into the Planning Commission's findings and it has to be supported by evidence from the applicant. Going back to whether or not this is equitable or not equitable, I believe it is a policy question that is left up to the Council to determine and we will implement it appropriately.

Councilmember Yukimura: You did not have objections to taking it out, I mean we have talked about it and I fully acknowledge that the issue of guesthouses, separate from homestay use, is an issue that we need to address and it may be best addressed by removing the whole concept of guesthouse. It is really misnamed, also, but removing that whole concept. But to do it now and to allow some people to have a homestay and other people to not, even though they are totally similar situated, does not seem just to me. I have proposed something that is much more limited acknowledging that guesthouses can be very detrimental if they turned into ADUs (Additional Dwelling Units). That is why limiting...

Council Chair Rapozo: Do you have a question, Councilmember Yukimura. We want to move on with this amendment.

Councilmember Yukimura: If it is problematic with this bona fide farm thing, I could take it out and just end with, "Provided that the guesthouse permitted prior to the date of enactment and the use as a homestay prior to the date of enactment." So the requirement of a working farm is something that we would address in the comprehensive ordinance that we would be developing, which I think we have to address as to agriculture zoned land.

Mr. Hull: There would be, like the Director of Planning stated, if the policy decision by this body is going to have this as part of the definition, we ultimately have to implement it. The certain issues with it though concerning bona fide farm, under State law bona fide farm is not exactly what everybody intends or means by bona fide farm as well.

Councilmember Yukimura: Right, that is why I am proposing to take it out.

Mr. Hull: That is one issue, and then second is to demonstrate that they are previously operated as a homestay. That gets a little dicey. Previously operated under what parameters? Under the new definition or the old definition? Because we have been operating previously would not be in the definition and quite frankly the old definition is why we are here. It is because it is being manipulated as a loophole for TVRs. The fact that this could potentially serve as

another loophole for TVRs to say, "I was operating for several years, previously with the old definition, and I was the lessee and therefore I can come into the system." There is cause for concern there.

Councilmember Yukimura: That is why I am proposing a companion to this saying that the ordinance shall apply...

Mr. Hull: I want to point out one other thing too with the...

Councilmember Yukimura: The law would be effective to applications that have not been approved.

Council Chair Rapozo: No, we are not going to get into the discussion of that one because the one on the floor is the first one.

Councilmember Yukimura: No, that is how to address it though.

Mr. Hull: I would also like to point out that someone said tactically, and this was (inaudible), but right now the way that the term, "provided that the guesthouse et cetera..." right now the assumption is that it is modifying or attempting to address the guesthouse, but right now it actually says for the whole operation. The definition of homestay would read that you have to have had a guesthouse in agriculture lands that was operating prior to adoption of this ordinance, which gets real messy for us.

Councilmember Yukimura: I am sorry, can you try that again.

Mr. Hull: The proposal for the amendment, the second portion, "Provided that the guesthouse was permitted prior to the date..." that is essentially modifying the entire definition of homestay, which would mean...

Councilmember Yukimura: No, it is an or, so it only refers to guesthouse. "In which a dwelling unit in which the owner resides or in a guesthouse," the provided that the guesthouse only applies to the guesthouse.

Mr. Hull: I know that is the intention of it, but I would have to make sure that legally we would be able to interpret it that way.

Councilmember Yukimura: Well, let us make sure, Jodi.

Ms. Sayegusa: I suppose like a comma after resides could make it a little clearer, but...

Councilmember Yukimura: It is either a dwelling unit in which the owner resides or in a guesthouse, I mean that is how the wording was for...

Ms. Sayegusa: Maybe, "In which the owner resides, or in a guesthouse and said..." and it goes on to separate the residents.

Councilmember Yukimura: Where do you suggest the comma be?

Ms. Sayegusa: Right after the third line, in which the owner resides.

Council Chair Rapozo: Okay, that is grammatical stuff. I think we all agree on what is the intent of the amendment. I believe that is clear, so we can fix up the grammar and commas, but I think we are all on the same page as far as what Councilmember Yukimura is trying to portray.

Councilmember Kualii: I was just thinking back about the numbers that were shared and they said that the use permits started in 1972, there were only eight (8) use permits put forward between 1987 and 2004, and that there was none applied for from 2004 to present, except for what is happening now.

Mr. Hull: I will just clarify there were nine (9) that were approved. Previous to that, there were eight (8), but I believe there are fifteen (15) or sixteen (16) that were ultimately reviewed. Some of those were denied by the Planning Commission.

Councilmember Kualii: So there are nine (9) old ones that has been in existence for a long time.

Mr. Hull: Right.

Councilmember Kualii: Do we know if any of those have guesthouses or not?

Councilmember Yukimura: At least three (3) of them.

Mr. Hull: I would have to look back.

Councilmember Kualii: And then of the bunch, there are seventeen (17) or so that are currently, June 23rd, I think there is a date that is being...

Mr. Hull: There are eleven (11) on the agenda for the 23rd, we have taken action on two (2) previously and one (1) pending.

Councilmember Kualii: How many of those have guesthouses?

Mr. Hull: Off of the top of my head, I would say maybe half, off the top of my head, but I would have to get those specific numbers.

Councilmember Kualii: So the process is there, they are being accounted for, this new law will take effect at a certain date, and everyone who is needing to do what they need to do can still do that now to apply for a use permit or to...

Mr. Hull: For the guesthouse or for homestay?

Councilmember Kualii: For a homestay.

Mr. Hull: Yes, they can apply right now. They are applying.

Councilmember Yukimura: But if we approve this...

Council Chair Rapozo: Councilmember Yukimura, hold on.

Councilmember Yukimura: I am sorry.

Councilmember Kualii: And then the way it is now, it still includes a guesthouse.

Mr. Hull: It still includes the guesthouse.

Councilmember Kualii: So in the new law, if we stick with our earlier version, that would stop the guesthouse.

Mr. Hull: The earlier version you are meaning the one in which the guesthouse was removed?

Councilmember Kualii: Yes, we voted on in Committee.

Mr. Hull: That would prevent anybody else from applying further for a guesthouse.

Councilmember Kualii: Okay. Thank you.

Councilmember Kaneshiro: What was the original intent of allowing a guesthouse as far as a guesthouse is for the family members to live in the guesthouse, the guesthouse is for people who come in and visit to stay in the guesthouse, or the guesthouse is to rent it out as a rental, or it is to rent out as an accommodation to people visiting?

Mr. Hull: The term that is used in the definition is to provide for guests, but there is no definition on what a guest is, so it is up for interpretation. I do not know the history in detail of the discussion that was had back in the early '70s when the Code was passed.

Councilmember Hooser: The definition of guesthouse can have a kitchen, is that correct?

Mr. Hull: Correct.

Councilmember Hooser: So to have somebody live there, was it not reasonable that somebody lived there without a kitchen, I would think. To address Councilmember Kaneshiro's question a little bit more...

Mr. Hull: I would preface that in the sense of in the eyes of land use zone laws or in the eyes of the CZO, the guesthouse functions as an exterior bedroom. Do people live in these things long-term, yes, they do.

Councilmember Hooser: A guesthouse is not intended from a planning perspective to be an extension of the house, another bedroom, which to me it leads to more argument to keep it in, because in essence it is just another bedroom separated by air instead of a connecting roofline.

Mr. Hull: We understood the concern in which the Director brought up, about the essential use of guesthouses above and beyond large properties or what not issues to come up. I think it would be fair to say that we would not have an objection if it was left back in there. Ultimately, at the end of the day we

had a whole lot of proposals for this body, several pages on it. There are a lot of things that need to be addressed concerning homestay operations. The reason we are here before you today with some urgency, is to get that loophole closed.

Councilmember Hooser: Right. So you have no objections to restoring it to the way it was or adding it back...

Mr. Hull: I do not think we would object to that either. Ultimately, quite frankly we would ask or beg for action today.

Councilmember Hooser: I am a little concerned about people...the whole vesting thing. People are using the guesthouse as a bed and breakfast and just to be clear, homestay operators that now have permits that are so-called legal and they are using guesthouses, and if we pass a law that prohibits guesthouses, how would that impact those?

Mr. Hull: It would not. They would be nonconforming.

Councilmember Hooser: Nonconforming is not illegal?

Ms. Sayegusa: They would have the entitlement in hand which would run with the land.

Councilmember Hooser: Okay, thank you.

Councilmember Yukimura: Can you repeat that again?

Ms. Sayegusa: The question was whether somebody has a permit and they have a permit to operate a homestay with a guesthouse on it, what would happen to that, and it is an entitlement advance. They can operate with the guesthouse.

Council Chair Rapozo: It would be a nonconforming use. It sounds illegal, but it is legal.

Mr. Hull: There is a specific section in the CZO that addresses that, but it is essentially the fact that there are structures or uses that maybe occurring at one time when it was legal to do so, and then the Code changes and prohibits any new owners or operators to function in the same manner, but because they had their vested rights in, as the County Attorney said the entitlement is in hand, it is clear that they are legal.

Councilmember Yukimura: In saying that people who have applied would not be bound by this, you are saying that they have a vested right to the old definition?

Ms. Sayegusa: No. That is not what I am saying. I was saying that it is more of a...because the precedent is what it is, for the facts or scenario where there is an application in but they have not gone through the whole process of getting a permit, in this case the use permit process, the analysis would also include equity issues - the estoppel issue. That is why if the Department chooses to apply going forward, the old law to those applications that are in, but have not gone through the whole process then that is certainly...

Mr. Dahilig: Let me dovetail on that. If the law that is passed by the Council puts us in a position to have to make further equity determinations on behalf of the County as a corporation to protect it, we will make those calls are in the best interest of the County. If the equity is defined by statute, prescribed by the Council in terms of how to equitably take care of somebody, we will in lieu of responsibility, we have as an officer, we will implement whatever definition is there. If that is done with an intent to equitably take care of the kind of scenario that you are talking about...Whether it is in there is not...I think what my policy, what this amendment is attempting to do is actually prescribe the manner by which the Department equitably handles this particular issue. Beyond that, I think it is very difficult for us to supplant our equitable *na'au*, if that is appropriate there, for what exactly is prescribed by law because we will abide by the law.

Councilmember Yukimura: So are you saying that you would prefer to have guesthouse restored as it was or over what I am proposing minus the bona fide agriculture part?

Mr. Dahilig: I would go so far as to say that if this amendment came out as is, what we would probably have to do to further refine the language here and make sure that what is submitted is appropriate, we would probably have to engage the Planning Commission to further refine it by administrative rule.

Councilmember Yukimura: Well, bona fide, but I am taking out that.

Mr. Dahilig: As well as the other submittal requirements and that is just to ensure that we are...

Councilmember Yukimura: Well guesthouse permitted prior to date of enactment, that is a permit, you can just check when they were issued their permit for a guesthouse, right?

Mr. Dahilig: The concern though is because homestays, many of these situations were homestays that were not permitted, again, we have a very fixed number. We know that we have a handful of them. If this is a homestay that did not come in for a use permit, and we are trying to ascertain that they were operating illegally prior to the application of this particular permit, we would have to set parameters on how evidentiary-wise we would be able to go to the Planning Commission and say here is the evidence supporting their operation prior to the enactment of this ordinance that would be passed, to then convince the Planning Commission that yes, you meet this definition.

Councilmember Yukimura: But it would help you not allow people who are just trying to create a homestay after the law is passed with a guesthouse.

Mr. Dahilig: Again, that boils down to what is then the policy objective relating to...

Council Chair Rapozo: And with that, I am going to end it there, because we are just beating this thing to death. I think we have heard it, unless other Councilmembers have questions, but I am clear on what you are saying. The reality is if they were not conforming, if they did not have a use permit, they are not eligible for grandfathering. They are illegal. If they did not have a use permit then they come in under the new...they come in and apply like everyone else. That is how we

did the TVRs and that is how it works, but as far as this amendment, it is real simple. The Councilmembers will make the policy call whether or not...but I really want to hear from the public because they have been waiting here all day.

Councilmember Yukimura: Just one last thing. I am fine with keeping guesthouses out as long as somebody who is in the same class as the people who have already applied, is not left out just because they did not apply in this first batch. That is what I am concerned about. Because they do not even have a chance to apply. They will be stopped. Their application will not be accepted and that to me is not fair. If this Bill passes today, and the Mayor signs it tomorrow, people will not be able to apply after that. I am only worried about the small group of people that have been without any complaints, operating. Some of whom are now in the application...

Council Chair Rapozo: You are beyond the question, Councilmember Yukimura. We will have an opportunity to...

Councilmember Yukimura: I am trying to explain my concern.

Council Chair Rapozo: You are going to have an opportunity in discussion, but you have opportunities during questions, you have opportunities during...that is not fair to us. Keep it to the questions, so that we can move this process forward. If we are talking about fairness and equity, let us all be fair here as well. The rules are suspended. Anybody in the audience wishing to testify? This is on the amendment that is putting guesthouse back in. This is testifying on the amendment.

CHAD DEAL: Aloha. I totally agree with the amendment as it stands, as it is proposed. That is all I have to say right now, but I would like to reserve time to comment further if needed.

Councilmember Yukimura: Do you know of people who might be caught and not be in in this series of applications, but are just like many in the series of applications?

Mr. Deal: I do and Councilmember Yukimura, I do not know if it is appropriate at this time, but I would like to say that I do not think it needs a cap. I do not think there should be a cap, but I think they should be allowed to apply in the future on a one to one basis and let the neighborhood decide if they are for or against the operation and an operating B&B. From all the testimony I heard, and I watched it twice last week, from all the testimony I heard there does not seem to be any real complaints about homestays or B&B operations because the people are there. It is like having somebody in your house whether it is in a guesthouse or in a room in your house. I totally agree with the bona fide farm operation. At the end of that line that says, "Must be a part of a bona fide farm as described by," and I know we do have that description in some of our laws.

Councilmember Yukimura: If we remove bona fide farm, would you still think the amendment is workable?

Mr. Deal: This is just my personal opinion, I do not believe that a farm operation that is not farm operation should be allowed to do this on agriculture land. If you are on agriculture land, I think you need to be doing agriculture. I saw from the time I came until now, I have been here for thirty (30) years now, when I first came to the island I started a farm. I was the only person in

my entire agricultural subdivision who basically was doing a farm operation, one of a very few. It was a disappointment to see that happen and know that it has been the same for all of you, to watch our agriculture lands being subdivided and not being used for agriculture. That is a pet peeve of my own. I think it is disappointing. When I say small farm too, I have a four (4) acre farm which right now would be allowed to be dedicated. We were grandfathered and dedicated a long time ago, since the beginning. At four (4) acres, we would not be allowed to be dedicated, you had to be five (5) acres. I think that is ridiculous.

Council Chair Rapozo: That is a separate issue. I understand and I agree, but that is not on the discussion here. Next speaker.

Mr. Taylor: If this amendment passed I probably do not have a problem with it, but if I own a property and I rent it to somebody, are they entitled to run a homestay?

Council Chair Rapozo: No.

Mr. Taylor: Okay. If I have a homestay permit and I go on a vacation for a month or three (3) months, can I bring somebody in and run the operation while I am on vacation?

Council Chair Rapozo: No.

Mr. Taylor: Closes down.

Council Chair Rapozo: Yes.

Mr. Taylor: Does it?

Council Chair Rapozo: If you are not present, yes.

Mr. Taylor: Okay, I just wanted those clarifications. Thank you. I think it is an important amendment and I am not quite sure if I understand why the Planning Department is opposed to it.

Council Chair Rapozo: They are not opposed.

Mr. Taylor: That was the impression that I got.

Council Chair Rapozo: He specifically said that he is not opposed to either keeping it in or taking it out.

Mr. Taylor: Okay, we are all on the same page. I would approve the amendment. Thank you.

Ms. Punohu: I am not in favor of this amendment and I will tell you why. When I heard that a guesthouse is just a bedroom with air, that went ding in my head, and I said no. Councilmember Yukimura, I would like to remind you that you and I fought really hard for farmworker housing and I can recall the biggest argument in this room was, no, we cannot have that because they are going to build a guesthouse and turn it into a place where people can stay there and we cannot have farmworkers working for the workers because that is what is going to happen. Here we are talking about bona fide farm, come on Councilmembers. If I

have to hear one more time, I do not know what a farm is, I am going vomit on this microphone. If you take that out of this whole Bill, I will say, absolutely do not do this Bill, because that is the whole reason why I supported it the last time I came to testify. It said that you have to do bona fide agriculture, but that is not going to fly with me, but I am just one person. I do not agree that we are adding in guesthouses. When we set up the Bill in the first place it was, you are in a house, you live inside a house, you rented a couple other rooms in your house, not, you are in the house, you get another house, and then you rent that house. If you are a bona fide farmer and you and I fought for farmworker housing, where are your farmworkers are going to live than, because it was under my impression that I was in the room fighting before for the housing for the workers. Are they going to live in the bushes? Maybe they are going to live in the other tent that we see in the bucket. I am very sorry that I cannot support this amendment. Please stop amending this thing to death.

Council Chair Rapozo:

You got a good memory, Anne. Next.

Mr. Bernabe:

Bona fide farming, basically it just means that you pay taxes from revenue generated from agriculture or farming be it. That is the meaning. I am like the *wahine* before me. I like to see these farm lots actively engaged in farming and subsidizing their farming activities with their B&B homestay. One of the things that they will need is a business plan. The business plan states how much does this farm cost to run? How much farming is introduced into the budget? How much money is introduced from the B&B and it is just a simple math equation. If a certain percentile is too much B&B and not enough farming, that is for you folks to figure out. What is that cash value for these farmers if they are going to farm? Where is the benchmark? Is it ten dollars (\$10) of proceeds from the farmers' market. If your property is two hundred thousand dollars (\$200,000), is it going to be a hundred thousand dollars (\$100,000) a year? That is what I think. I am skeptical with these grandfathering of guest homes because part of me knows some of my own relatives that had these guestrooms that you folks are talking about with no kitchens, and then my cousins move out, and then they made it a B&B. The other spectrum I see folks deliberately come here, move here with the business model to build these things and create...Where is the balance? At Pāpa'a Bay, those guesthouses have five (5) whole rooms, but there are some guesthouses that are not kitchen-free. Yes, there are no complaints, and I have testified no complaints from B&B, excluding one area, and that is taxes. We do not even know that our neighborhoods have gone up because of some of these businesses. So we are being affected. Maybe we do not know it because there is no noise complaint, but I can tell you now I do not want five (5) B&Bs in Wailua Houselots going up and making my value go up. I totally think because the language is already there, that some of these gentleman farms should be able to subsidize, but then again, what does the business plan say and what is the percentage of farming incoming, tourist incoming, and there should be a cap because we do not want to cannibalize our hotels.

Councilmember Yukimura: Are you aware that in our farmworker housing bill, for every farmworker housing, we require thirty-five thousand dollars (\$35,000) in gross farming receipts.

Mr. Bernabe:
base to work from right there.

There you go, you have a base. So there is a

Councilmember Yukimura:

That is the kind of base you are talking about?

Mr. Bernabe: Those are the kinds of numbers that we need. You say bona fide farming, but bona fide farming is an IRS (Internal Revenue Service) receipt from your eggplant, or your cows. The other thing since you got me here is that zip lining is not farming. Quads are not farming.

Council Chair Rapozo: Matt, hang on.

Councilmember Yukimura: Agreed, thank you.

Council Chair Rapozo: Neither is tourism.

Mr. Bernabe: That is true.

Council Chair Rapozo: We are going to take a ten (10) minute caption break.

There being no objections, the Council recessed at 3:29 p.m.

The meeting was called back to order at 3:39 p.m., and proceeded as follows:

SAM LEE: I am sorry if I sound disorganized because I was not planning to speak. I am not a great extemporaneous speaker, but I want to speak for a couple of reasons. Regarding the amendment, I am sitting back here in the audience and listening to what is going on here and I am having a difficult time understanding why we are having this conversation again. We have followed, or some of us in this room here have followed this issue even before it went to the Planning Commission. We looked at the original Ordinance. We had meetings and spent countless hours, days, weeks, and months on this issue. We were here last Wednesday to testify and to hear the deliberations of the Council and watch you folks vote. This thing came up last week, and to your credit, Council Chair, your definition of what a homestay should be resonated with me, as it did with many of the majority of this Council and other members of the public in the audience. Why are we rehashing this again? Let us vote. We have been here quarter to nine this morning. I do not know if we are any closer to getting this business done then we were five (5), six (6) hours ago. We are not chasing our tail here?

Council Chair Rapozo: Yes.

Mr. Lee: Can we end it?

Council Chair Rapozo: Mr. Lee, under normal conditions this would never happen at a Council Meeting, it would go back to the Committee, but because it is important that we pass this out today, we are going to dedicate the time. I am trying to be generous with Councilmembers, allowing them to ask questions, I am trying my best.

Mr. Lee: I understand.

Council Chair Rapozo: I agree with you. The definition...we did this last week, and it passed. Councilmember Yukimura and myself are not on the Planning Committee, so obviously we were not able to vote. That amendment was my amendment introduced by a fellow Councilmember. I can only hope that they will remember what they did last week and vote accordingly this week. As I stated earlier, the Sunshine Law prohibits us from seeing amendments, so what you saw today is

what we are seeing today. I am going to tighten it up a little bit because I agree we need to move on this. This has been discussed over and over and over and I am asking Councilmembers to cooperate, but we are going to limit it to questions and then we are going to move and vote on the amendments.

Mr. Lee: Thank you, Council Chair, but one final comment, what I am coming around to in a roundabout way is, I was always under the impression the way this body works is, matters go to your specific Committees where they are vetted thoroughly, a vote is taken, and then it is brought to the larger Council. Under normal circumstances, my understanding is, is that the full Council then will do what you are doing today and logically follow the preexisting work from your Committee people. Again, that is what we are asking for.

Council Chair Rapozo: Thank you. I apologize for the tedious nature of this process.

CAREN DIAMOND: I do not support this amendment and I want to read a couple of things that might help you not support it as well. In the middle of the homestay definition it says, "Section 5A-11 of this code for a homeowners exemption for the homestay site, provided that the guesthouse was permitted prior to the date of enactment of this ordinance, and used as a homestay prior to the date of enactment of this ordinance." So what you are saying here is that if you illegally operated your homestay operation, then you qualify for this definition. If you did not illegally operate your homestay, you do not, and I really disagree with the fact that you want to grandfather or that it would even be a consideration of grandfathering in unpermitted uses. It has been clear that B&B permits have always needed a use permit. That was the reason it was bifurcated in the TVR ordinance because the B&Bs did need a use permit and that was already in place. So basically what you are saying is if you failed to follow the law, you operated without a use permit, then go ahead you are going to get this benefit. I do not support this and I hope you do not support it either. Basically, we support zoning, the residents' right to have residential neighborhoods, and visitors not to be everywhere. We hope you support the main ordinance, but not this amendment. Thank you.

Council Chair Rapozo: Thank you, Caren. Next speaker.

TINA SAKAMOTO: Good common sense tells me that we need a clear succinct definition of homestay with a very narrow limited interpretation. This amendment does not follow any of that. I think it is not clear, it is open to multiple interpretations, and I am firmly against it. Thank you.

Council Chair Rapozo: Thank you. Next speaker.

JULIE CHONG: I think I am in favor of this amendment because we did have a use permit issued last week that did have a guesthouse, so it would be consistent rather than...

Council Chair Rapozo: Could you repeat that, you had a use permit granted last week but...

Ms. Chong: That I think had a guesthouse.

Council Chair Rapozo: Oh, okay.

Ms. Chong: To me that makes sense. It is like everything coming together and it is consistent rather than going in another direction. I know there is conversation about use permits needed and things like that, but the nonconforming use permits did they become necessary when all that regulation was being done?

Council Chair Rapozo: For TVRs, yes.

Ms. Chong: And so I see it as a use permit for homestays becoming necessary because this is the time of the regulation. So it makes sense to me. I just wanted to add a comment about Councilmember Yukimura's amendment last week, I know that is not the topic, but I like that amendment because it does address a lot of the problems that have come up with the homestay issue.

Council Chair Rapozo: Thank you. Question.

Councilmember Yukimura: Julie, your situation is not one of a guesthouse, right, your homestay is under the same roof.

Ms. Chong: Yes, I am confused about all of this, but I think it is not...if you do not change it or whatever.

Councilmember Yukimura: Okay, so you will not be affected by it, but you are right the first homestay...

Council Chair Rapozo: Question, Councilmember Yukimura.

Councilmember Yukimura: The first homestay permit was of a guesthouse, okay, thank you.

Council Chair Rapozo: Anyone else wanting to speak for the second time? Oh, first time, come up.

BEAU BLAIR: I am absolutely against this amendment. It is poorly worded, not clear, and it actually confuses the intent of limiting the homestay. What is fair and equitable for the families who need a place to live, because all these guesthouses could be long-term rented. If it is truly needed...if somebody really needs to support themselves with the help of the guesthouse, they can legally rent it long-term to any number of families.

Council Chair Rapozo: Question.

Councilmember Yukimura: Do you support the idea of a working farm or that anything on agricultural land in order to get a homestay permit would have to be a working farm?

Ms. Blair: I am not really familiar with the whole concept of what is allowable and not allowable on agricultural lands, but we are talking strictly about homestays, right? So, if a homestay is in somebody's house, farm, or barn, and that helps them, I am not clear on the whole agriculture concept of that. But I know to have a guesthouse on agriculture land does not seem to me like it would be fulfilling the concept of being a working farm. If you are running a commercial business other than your farm, you could be using that housing for

farmworkers, or your family, or for long-term rental. I am not really sure what you are asking me.

Councilmember Yukimura: But actually it is not allowed to have a kitchen, so you could not really...

Ms. Blair: Right, supposedly a guesthouse is whatever a guesthouse...I thought it was a five hundred (500) square foot maximum with no kitchen.

Councilmember Yukimura: Right.

Ms. Blair: If you are going to long-term rent something like that or go for a nonconforming use permit and rent it long-term.

Councilmember Yukimura: Or maybe rent it as a bedroom and you use the kitchen in the house.

Ms. Blair: We are talking about this amendment, so...

Council Chair Rapozo: Exactly. Thank you. Anyone else wishing to testify? First time. Second time. We will go in the order of the first go around.

Mr. Deal: I also want to clarify too that anything I say here today is my own personal opinion and does not reflect any of the organizations that I may be a member of. I have one caveat about separating the guesthouse from the main dwelling. We have seen in the past where the guesthouse was actually divided off, sold off to a separate owner on a separate piece of property, so I just wanted to say that for the future if it is separated now in this Bill, if there is any separation done, it could give cause for an argument later on that that could happen. That is not something that I want to see on a personal level happen on agriculture land either because it is not meant for long-term. We all know we need long-term rentals and housing for your children, my children, and for other people who want to move here. The answer to that is not converting a guesthouse into a long-term rental or a long-term property with a kitchen. That is not going to solve our housing problem. That is all I have to say on that.

Ms. Punohu: I just want to reiterate a few things. It has to be farming, bottom line. I will again repeat myself yet again, we sat in this room and fought for a farmworker housing bill which gave the right to build extra structures on that property for the workers that you needed for your farming operation. Now, we are sitting here talking about needing a guesthouse for visitors. When people came and opposed it, they said that it would be used for visitors. My concern is if you get your way, Councilmember Yukimura, what is going to happen to what you fought for so hard in this room? What is going to happen to our farmworker housing that is on the property? Is it going to be turned now in to tourism? What is going to happen to our farmworkers that we fought hard for? Are they going to go back under the bushes? Why do you not use the farmworker housing bill definitions of a bona fide farm operation for a definition, since you are not able to figure it out, since you were able to figure it out for the farmworker housing bill since we sat here and hacked it out in this room for meetings, and meetings, and meetings. I am very upset that this would even be put forward.

Council Chair Rapozo: Thank you. Matt.

Mr. Bernabe: I do support B&Bs, but when I defended it, it was under the premise that they were under the same roof and whatnot. I want to go back a couple testimonies. Why is the lady who has six (6) rooms going to live in the guesthouse instead of the kitchen? This is extreme now at this point. I see both sides of it, like I said earlier, the abuse is rapid. It is almost better to just make it all under one (1) roof, not a room away from the main house. A cap to me is necessary because we do not even maximize out hundred percent (100%) with tourism. I believe you folks are going to get on it, but if the tax system gets fixed, I really would not have as much of a problem of them being in residential areas, if the tax issue was rectified as far as I am concerned. The last thing I will end with is that I think B&Bs on agricultural land should be able to happen but not only should it be a bona fide farm, like you pointed out earlier with the cap that we discussed, I liked that cap idea, but also education. There also has to be a portion of their usage to educate the people who come here on the farming procedures. It cannot be, I am making money, here is your toast, and get out the door. If that language is in there too, if there was a learning aspect to make it even better on top of really farming and also spreading the farm as almost like a free advertisement for when they go back home, buy Hawai'i-made. I know you folks have a hard job and this is a tricky one. You can be on one side and then you do not like something, and then you are on the other side. I would like to thank you folks for actually dealing with it and making progress on this. That is huge. Thank you.

Mr. Taylor: Although I did say that I was supportive of this amendment, again, I would like a clarification on what is a bona fide farmer. To me a bona fide farmer would be making at least fifty-one percent (51%) of his income from farming. If that is not the case then I think we need to spell it out as to what is the definition of a bona fide farmer, because that is going to raise a whole "can of worms" down the road. I know we are not talking about the whole Bill, but I am opposed to any kind of vacation rental in residential neighborhoods. We have a zoning for that kind of activity. Why bother to have zoning if everything is going to be, well, you can exempt here or exempt there. Put all homestays, B&Bs, TVRs, in the vacation rental zoning area, period. A lot of problems will go away. I will go to this point and say that I think the folks that have been doing this whether legally or illegally, should be given an opportunity to legalize in their situation, but not to move forward with allowing anymore in residential neighborhoods. I bought my house in what I thought was a residential single-family neighborhood, now I have one (1) unit across the street that has been divided into three or four units. Down the street I have homestay projects, one is a tenant running an operation. It degrades the neighborhood and if I wanted to buy into an apartment-house zoned area or a vacation rental district, that is where I would have gone. Think really hard about the overall project that you are looking at, I think it is important, but one thing at a time.

Council Chair Rapozo: One thing at a time. Thank you, Ken. Anyone else?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I agree with Mr. Lee's assessment and therefore I move that we call for the question.

Councilmember Kagawa moved to call for the question, seconded by Councilmember Kualii.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I beg the indulgence of the Council, but I have a question for the Planning Director.

Councilmember Yukimura: I do too.

Councilmember Hooser: I think it is a relevant question and I will try to keep it as short as possible.

Council Chair Rapozo: Is he even here?

Councilmember Hooser: Or is the Planning Department here?

Council Chair Rapozo: I will entertain the questions and then I am going to entertain the motion to call for the question.

Councilmember Hooser: Sure.

There being no objections, the rules were suspended.

Council Chair Rapozo: This is only on the amendment.

Councilmember Hooser: Earlier, I asked the question about the impact on someone who has already gotten a permit and included a guesthouse and I was told that it runs with the land. As I sit here I am thinking, is that in perpetuity, do you have to check back every year and reapply, there are no inspections? So what if, for example, the permit structure turns into a TVR or converts their guesthouse into a kitchen or whatever. Is there no enforcement or mechanism for taking that permit away? Could you explain that.

Mr. Hull: It is case-by-case on what the conditions of approval are for a particular operation. For the previous nine (9) that were approved several years ago, I am not sure that there were time limits put on those, conditions of approval, I would have to check and get back to you folks. For the last application that was approved recently by the Planning Commission, there was an annual renewal in which the Department would do and it was for the primary purpose of ensuring the homeowner exemption is still met onsite.

Councilmember Hooser: So that one-year renewal would be a paper inspection, so there is a mechanism. For example, the guesthouse provision, if they were abusing that, if they put in a kitchen, that would be the opportunity for the Planning Commission to see that and then not renew the permit.

Mr. Hull: Correct and there is also within that last one that was approved, there was a condition of approval of onsite inspections happening, if necessary.

Councilmember Hooser: Do you expect that with those provisions it is likely to continue in the future?

Mr. Hull: It would be the recommendation of the Department for other applications that are under that application for approval that that condition be placed on them as well.

Councilmember Hooser: And awaiting a big ordinance to fully...

Mr. Hull: Correct.

Councilmember Hooser: Okay, thank you. That is all I have.

Councilmember Yukimura: I have a follow-up. If they are found to be in violation by putting in a kitchen in a guesthouse, will they be able to argue the remedy for the Planning Department and the public interest should be to correct it by taking out the kitchen or can you totally remove the right of a homestay?

Mr. Dahilig: From the time you actually provide an entitlement through this process, if you are going to take something away it has to go through due process in order to remove the right. That mechanism is prescribed by the rules of practice and procedure at the Planning Commission by which a contested case hearing would be initiated after the probable cause is delivered from the Department over to the Planning Commission to say that these guys are in violation of these permits, you need to hold a hearing, provide this person due process before you take the permits away.

Councilmember Yukimura: Right, but if you word the condition such that if these violations occur then it shall be grounds for revoking the permit and there is full notice, I know you have to go through a process, but would that set up the process so you could actually revoke the permit?

Mr. Dahilig: I guess the concern would be at this point is if such a contested...if the Council were to begin prescribing the method and manner in which a contested case hearing is actually going to be conducted by the Planning Commission...

Councilmember Yukimura: I am not talking about the Council doing it.

Mr. Dahilig: Well, prescribing it, and that is what I am saying at this juncture. In order to have that desire effectuated that you are actually talking about, you are going to have to amend the Planning Commission rules or it would have to be prescribed by ordinance. If it is prescribed by ordinance, what would happen is there would be an effect of the Council specifically dictating to the Planning Commission how to conduct its hearings and what remedies it can or cannot produce as a consequence of probable cause.

Councilmember Yukimura: But the Planning Department on its own could also amend those rules.

Council Chair Rapozo: Councilmember Yukimura, we are now into the rule making of the Planning Department, and I just have been informed that we did not even entertain a motion for this amendment. Can somebody do that real quick, if you are still interested in doing this amendment.

Councilmember Yukimura: No, I am not going to do that and I want to explain, but could I just finish here?

Council Chair Rapozo: On what, because you are going into Planning Department rulemaking. Stick to the Bill.

Councilmember Yukimura: Right. It can be done as the Director said by rulemaking or by Council ordinance making. Chair, the only question...well let me just say right now...

Council Chair Rapozo: Why do you not ask a question. If you do not have a question, I can let them go back and sit down, and we can bring this back to order.

Councilmember Yukimura: Just explain to me how passing this new definition is going to be effective against people who have already applied, because that is the whole purpose, right?

Mr. Dahilig: I have difficulty specifically...at the end of the day if we are put in a position without equity guidance from the Council as to how to handle situations, where the applications that are already in, but have not been approved by the Planning Commission, we are then left with the analysis that the County Attorney has set forth before the Council concerning that hybrid approach. What is the best equitable means of trying to implement the legislation. If this is in fact put in there, we would have to go through that analysis first, but as I stated in terms of how we actually move forward from an operational standpoint notwithstanding what the Council prescribes as the equitable remedy, we will then go through that analysis ourselves. Our default typically is, do you want to be under the new law or do you want to be under the old law? That is the analysis we gave to the Council at the last meeting.

Councilmember Yukimura: Okay.

Mr. Dahilig: That is the question we posed.

Councilmember Yukimura: Okay. So this second amendment in which I trust...

Council Chair Rapozo: We are not on the second, we do not even have an amendment on the floor.

Councilmember Yukimura: Okay, then if we can come back later, I will not ask the question now on the second amendment which is really to the heart of it.

Mr. Dahilig: If I could say though, it does not preclude the Planning Commission from potentially imposing what you are wanting to put in here as conditions to a use permit. They have that latitude to...

Councilmember Yukimura: Okay, you are back on the....

Mr. Dahilig: They have that latitude, so just to follow-up on your question, "How do you implement these things?" The Planning Commission also could on their own action...

Councilmember Yukimura: Okay, alright.

Council Chair Rapozo: Okay, thank you. Stay right there, because we are on the main motion right now which is the Bill that was passed out of Committee. That is where we are right now, because we did not do a motion to amend. Councilmember Chock had a question on the main motion. Councilmember Yukimura, are you going to introduce this amendment or not?

Councilmember Yukimura: I am not going to introduce it.

Council Chair Rapozo: Okay.

Councilmember Yukimura: I have another amendment, I think is germane to the point that we were kind of dancing around.

Council Chair Rapozo: So, the first amendment is not going to be introduced, we are on the main motion. You made a motion to call for the question on the amendment that had never been introduced, so I am going to ask you to withdraw the motion.

Councilmember Kagawa moved to withdraw the motion to call for the question. Councilmember Kualii withdrew the second.

Council Chair Rapozo: Thank you very much. Now, we are back on the main motion. Why do you not introduce your second amendment and let us move forward.

Councilmember Yukimura: A brief explanation of why I am not introducing the first amendment is because of the testimony, also because I have on the break received some information that indicates that the people are concerned about having submitted applications and then also that there is a potential of a loophole. That is why I am not introducing it.

Council Chair Rapozo: Okay, let us do your amendment.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: You have a question?

Councilmember Kagawa: That means we spent two (2) hours for nothing?

Councilmember Yukimura: No.

Council Chair Rapozo: Yes, we did.

Councilmember Yukimura: We did not because until I got the information and had the discussion, and heard the testimony, that was not wasted time.

Council Chair Rapozo: Okay, go ahead and introduce your second amendment.

Councilmember Yukimura: And also the bona fide farming question is going to come up when we deal with the comprehensive...second phase.

Council Chair Rapozo: Let me just say this about the bona fide farming, if we do this the way the law tells us to do this, they have to get a State permit. The State permit requires a bona fide farm, the revenue to come then, and it requires a special and unique circumstance that the State believes would require or allow you to do a non-permitted use. That is handled by permit already. Councilmember Yukimura is shaking her head, no, no, no – believe me, you have to get a State permit to use agricultural land for overnight accommodations. They do not give those things out just because you want it.

Councilmember Kualii moved to call for the question on the main motion.

Council Chair Rapozo: On the main motion?

Councilmember Kualii: Yes.

Councilmember moved to amend Bill No. 2587, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 5, seconded by Councilmember Hooser.

Councilmember Kagawa seconded the motion to call for the question.

Council Chair Rapozo: Hang on, I would like to get through this amendment because...but I am...

Councilmember Kualii: I had a second.

Council Chair Rapozo: I understand, but I did not recognize the second because I want to see this amendment get on.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: But I am not going to spend two (2) hours on this amendment, I can promise you that.

Councilmember Kualii withdrew the motion to call for the question. Councilmember Kagawa withdrew the second.

Council Chair Rapozo: Councilmember Yukimura, introduce your amendment, you ask questions, and then we are moving. We are voting in five (5) minutes. Go ahead.

Councilmember Yukimura: Thank you. I made a motion and there was a second.

Council Chair Rapozo: Describe your amendment.

Councilmember Yukimura: It would clarify what the Planning Director was saying where the equity lines are and I am trying to make it so that my purpose here is so that the new definition would apply to even those who have been...the applications have occurred already, but the new definition would apply because otherwise you would not be able to succeed in your initial and main motive here, or goal here.

Council Chair Rapozo: Okay, discussion?

Councilmember Hooser: Yes.

Council Chair Rapozo: Please.

Councilmember Hooser: I just want to understand the amendment, which states, "Shall apply to all applications for use permits that have not received approval from the Planning Commission prior to the date of approval," so what this says is the ordinance which are in two (2) parts, both the definition as well as the ten (10) cap limit, right?

Council Chair Rapozo: Right.

Councilmember Hooser: So that ten (10) cap limit shall apply to all applications for use permits that have not received approval as opposed to acceptance?

Council Chair Rapozo: Right.

Councilmember Hooser: Right now I think it is an acceptance, is it not?

Council Chair Rapozo: Correct.

Councilmember Hooser: And so this further restricts.

Council Chair Rapozo: Yes.

Councilmember Hooser: So those who are standing in line right now that have been accepted, that has guesthouses in them, can no longer have guesthouses in them?

Council Chair Rapozo: Well, this really applies to the cap.

Councilmember Hooser: No, this applies to the ordinance.

Council Chair Rapozo: Yes.

Councilmember Hooser: Which is the definition and the cap.

Council Chair Rapozo: Correct.

Councilmember Yukimura: That is true.

Councilmember Hooser: So this would affect anybody in line, right now, that has a guesthouse that have been accepted.

Council Chair Rapozo: Correct.

Councilmember Hooser: I think that is pretty significant...

Councilmember Yukimura: It is.

Council Chair Rapozo: It is significant.

Councilmember Hooser: And I wanted to point that out.

Council Chair Rapozo: And I think the Committee agreed that it was going to be effective after the Mayor signs it. That is what the Mayor agreed to, and that is what I think the public agreed to. Councilmember Kagawa.

Councilmember Yukimura: You are right.

Councilmember Kagawa: I think a great point by Councilmember Hooser, because we had that opinion from the Attorneys at the previous Committee Meeting that those that are accepted at the Planning Department would be under the old; so it would not count against the ten (10) and then now this contradicts what was said, but then it contradicts the Attorney's ruling which said we cannot enact an ordinance and then retroactively go back. I think this amendment is not in the best interest of the County, as far as what we heard last week.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: In interpreting, it seems like it applies to both the definition which would impact the guesthouse people that are in line, and the cap.

Council Chair Rapozo: Correct.

Councilmember Hooser: So it greatly further restricts the number of applications to be approved. I am not going to be able to support this.

Councilmember Kaneshiro: I have to agree. We went through Committee, we voted on a Bill through Committee that I was comfortable with, and I think when we were in Committee we told people to get their permits now because once this thing gets enacted, then the rules are going to come in place. I think this does the opposite, it goes back and says that even if you turned in your application and it is going through the pipeline, then these rules are going to apply to you which is not what we said, or the Administration said how they would handle it. I will not be supporting this.

Council Chair Rapozo: Thank you. Any further discussion?

Councilmember Yukimura: I appreciate all the input and you are right. I agree that it does not work as written here. I think I meant to say upon enactment which would have been upon the Mayor's signature. What I am concerned about is this new homestay was also meant to exclude the transient vacation rentals that were coming in and the question is if the old definition applies to all those who have applied, then how are you going to be enforcing the new definition that you wanted to prevent the TVRs from using?

Council Chair Rapozo: Hang on, we are still in discussion. Any more discussion? I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Dahilig: We said at the last meeting that when you are trying to apply the new definition versus the old definition, we are going to enforce other applications that come in after the law is signed by the Mayor, if it is signed. If

people that are in the hopper want to actually be subjected to the new law, they have that choice. We will give them that choice.

Council Chair Rapozo: Thank you. Any other questions?

The meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Question.

Council Chair Rapozo: We have called the meeting back to order, Councilmember Yukimura. We are moving.

Councilmember Yukimura: Chair, what if they do not want to be held to the new definition?

Council Chair Rapozo: Then they go with the old definition. They have two (2) choices.

Councilmember Yukimura: Then we would not be able to stop those illegal TVRs.

Council Chair Rapozo: Well, I question the Planning Department's explanation on that. Grandfathering, if you were in compliance at the time the law was passed, you are subject to grandfathering. If you were not, you are not. I do not know why you would give them an option; take old or new, I mean after the law is passed, everybody that is not subject to grandfathering goes with the new law. That is the way it is done. You do not give an option. "We changed the speed limit from forty (40) to fifty (50), you can go forty (40), or do you want one ticket for fifty (50)?" When the law changes, the law changed, it is done.

Councilmember Yukimura: That is my puzzlement as well.

Council Chair Rapozo: Well, that is their function. I cannot dictate what they do. They have their administrative rules. They get their attorneys and they do what they do. We set the policy. We tell them this is what we want to see, we do not want to see guesthouses in there, we do not want to see certain things, and they have to comply with the law. I do not know where that came from where we are giving them the choice, but that is...they have lawyers.

Councilmember Yukimura: Well I mean I am concerned with how we are going to defend this.

Council Chair Rapozo: They are going to defend it. We set the policy, and they will implement.

Councilmember Yukimura: Are we setting the policy that you can choose whichever definition you want to go under?

Council Chair Rapozo: No. We are not setting that policy.

Councilmember Yukimura: This feels like insanity to me.

Council Chair Rapozo: Not to me.

Councilmember Yukimura: That is certainly not what I learned from law school.

Council Chair Rapozo: It is insanity, but it is not the Bill that is causing it. I am done. We are moving. We are going to vote on this. There is nothing floating. It is the main motion.

Councilmember Yukimura: No, we did. I will withdraw it.

Councilmember Yukimura withdrew the motion to amend Bill No. 2587, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 5, Councilmember Hooser withdrew the seconded.

Councilmember Hooser moved to amend Bill No. 2587, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 6.

Council Chair Rapozo: You have one (1) too?

Councilmember Hooser: Yes, moderately, real quick.

Council Chair Rapozo: Yes, that is what Councilmember Yukimura said.

Councilmember Hooser: It is going around. While it goes around, I will describe it. I want to reinforce that the earlier discussion was not a waste of time. We talked extensively about the guesthouse requirement, I think it was a good discussion, and we needed to have that. We had good discussion on the guesthouse amendment and what this does is, it restores the definition to what it was before we removed the guesthouse. During the prior discussion I got the feeling that perhaps there was some interest in restoring the guesthouse, so we do not need an extended discussion, because everybody knows the arguments. This amendment restores it to what it was last week.

Council Chair Rapozo: Got it. Was there a motion.

Councilmember Yukimura seconded the motion to amend Bill No. 2587, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 6.

Council Chair Rapozo: Thank you. Discussion? There should be no discussion because we just went through this for two (2) hours.

Councilmember Kualifi: I am ready to vote.

Council Chair Rapozo: Seriously. This is what happened, the Committee changed it and then it comes to the Council and we are trying to change it back, which is perfectly legal and legitimate. We have had the discussion and I am ready to vote.

Councilmember Kagawa: I am ready to vote also, but I will say that I really feel like the guesthouse can go back into the market for affordable housing for local families. Even in areas like Hanalei or Hā'ena, rich areas, there are still a lot of local, low income residents that need housing, that need to get away from their parents or what have you, and I believe that this is an avenue, the guesthouse, is an

avenue that can fill that gap of having some local families move in. It would be a nice gesture from those who are making it on the main house, so I just want to say that is my little on this guesthouse issue. Thank you.

Councilmember Hooser: In summary, the Planning Director said clearly he can support this, number one. The Planning Department also said that the guesthouse intent is to be an extension of the house or another bedroom, that is number two. Number three, that was the original intent from the Planning Department coming over. I just felt compelled to introduce it and let the Members vote.

Council Chair Rapozo: I can respect that. I will also state that the Planning Director said he supports the guesthouse removed. What did I say?

Councilmember Yukimura: Support.

Councilmember Kualii: Concur.

Council Chair Rapozo: Concur.

Councilmember Kualii: That was his word.

Council Chair Rapozo: Any other discussion? Obviously, you know how I stand. I was the one that asked for the amendment to take it out to be introduced. So, I am not going to be supporting the amendment. Roll call, please.

The motion to amend Bill No. 2587, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 6 was then put, and failed by the following vote:

FOR AMENDMENT:	Chock, Hooser, Yukimura	TOTAL – 3*,
AGAINST AMENDMENT:	Kagawa, Kaneshiro, Kualii, Rapozo	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Yukimura was noted as silent, but shall be recorded as an affirmative for the motion.)*

Council Chair Rapozo: We are back to the main motion. Any further discussion?

Councilmember Kagawa: Are we going to allow some time for the people from the public who wanted to...or are they done?

Council Chair Rapozo: Anybody want to testify on the main motion? Just pretend the last two (2) hours did not happen, and then that is where we are at. I do not say that to be funny, I am just saying that all of that...we are back to where we started. That is where we are at. It is the Bill that was passed out of the Committee. Any other?

There being no objections, the rules were suspended to take public testimony.

There being no public testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Let us go one (1) time around the table for discussion.

Councilmember Kagawa: I am really torn about this issue. The E-mails, some of them I have not responded to, but I feel for the B&Bs who may not get their permits. I do not know what Planning is going to do and how tightly they will look through these permits, but I also know that when we say that there are no complaints, I know that that is not true. The complaints are not from nearby neighbors. It is complaints from regular local people that feel like they want to keep the residential neighborhoods for themselves. They said they are not the type to...they do not know these people personally, they do not feel like it is their nature to show up here and speak out against these people who are just trying to make a living as well. B&Bs are not like TVRs, they do not charge an arm and a leg. A lot of them are getting by helping them to make their monthly payments. I have some phone numbers and names if you want to call them, but they said they would like to speak to people who say that they got no complaints because they said that it is not in our nature to come before the Council, we do not like to come here, we do not like to be on television, we do not like to oppose other people who are trying to do what they do, but they said that they want to make sure that you support the Planning Department and try and get ahold of these illegal TVRs. The TVRs have destroyed Hanalei, Hā'ena, and the Whalers Cove community. How do we solve this problem? Some people say, just solve the illegal TVR problem, but the problem I guess from the Planning Director is that homestays is a method in which the illegal TVRs are using to try and keep their business going. It seems like an indirect way of solving a problem, but it is recommended by the Planning Director. I am not a Planner, I am not in his shoes to try and solve this problem, because it is not a small problem. It is a big problem. Many islands; Maui, City and County, they are struggling as to what to do. We are trying it. This may not even work, but we are trying to solve a big problem, not a small problem. The TVRs are the problem, not so much the B&Bs, I do not think they are much of a problem actually. What are we going to do here as Councilmembers for our children and the future, because right now we are headed in the direction where soon all of our children and what have you will have to be renters or move elsewhere in order to afford to live here. If taking these kinds of measures in an indirect way is going to help us for the betterment of *keiki* in the future, then I am willing to take that bold step and fill the cracks. That is just where I am right now. Believe me when I say that I am not a person that does not feel for every person that is telling me it is going to hurt them, I do hear you and I hope that this will deal the softest blow as possible, as we try to correct the wrongs of Kaua'i and try to make this a better place for our kids. Thank you.

Councilmember Kaneshiro: Nobody said that our job was going to be easy. No matter what we decide you are going to have happy people and you are going to have unhappy people. I think we just need to stay the course, we need to make the decision that we think is right, not all Councilmembers may agree, but whatever we vote is what we go with. Maybe in the future if the Council does not like it and they have the votes, they can change it, but right now we need to take the issue at hand, decide on which way we want to go with it, and vote on it. For me, I have to appreciate that basically we are only down to two (2) things, which was the definition of a homestay and the number of permits that Planning is willing to review. We had a lot of conversation on it. I think we beat it to death. As far as the definition, I am comfortable with the definition. I am comfortable with leaving the guesthouse out,

that is what I am comfortable with. The number of permits, I think Planning probably already has thirty (30) plus permits in the tube already. Once this passes, they will get another ten (10), that is forty (40), and I am sure at the end of the year if people are complaining and saying, "I am waiting on permits" and Planning comes back and says, "We got another twenty (20)," we can probably work with it. We have to see how bogged down the Commission is, but I am sure that we can work with it. To leave the number open, I think, it leaves it open to really slam the Commission. It is easier to back peddle with setting a limit and saying there are more people at the flood gates than opening the flood gates, and then trying to say we cannot handle all of these and what are we going to do now. I am ready to vote on this and move forward.

Councilmember Chock: Thank you, everyone for your insight and input today. I said from the beginning that I would support the Bill as it came through for the definition and it is because I understand the bigger picture of what is trying to be accomplished here. When it comes to the guesthouse, I am somewhat indifferent, however, I think that really it is within how we are defining guesthouse that issues come up. It should not even be called a guesthouse, it should be called a "detached bedroom." We want to limit the abuse, but the other side of this as we have seen, people are going to try to find a way around it. My other fear is that they do things with this guesthouse now that we do not want them to do. If we want really long-term affordable housing, I am not going to move my kids into a one-bedroom with no kitchen, so we have to change the rules then and open up ADUs in order to create that kind of opportunity. Nonetheless, I think that the people who need to be taken care of will be taken care of under the process and the system that the Planning Department is putting forth. I trust that they will move on that. I want to make a suggestion, and this is more of a question previously, but my suggestion is that...I think this would run a little bit smoother because this is kind of like chicken or the egg. What comes first and how do we address it? I know the bigger issue is are we being responsive to the TVR issue, but if we came with a bigger plan about what is going to come and how we are going to do it, like what I heard Mr. Taylor say, then we know that we have to take care of farmworker dwellings, agro-tourism, but that is not what is happening. When we get thrown little pieces like this, it is hard for us to support, mitigate, and get on the same vision as everybody else. We need to be included in that plan and that is what my request would be. If we can get a little more insight on that as we move forward, give us the bottom line and this is what is going to happen, we are going to address this one next, and this is how it is going to foldout. I think our meeting would go faster because we would be on the same page and understand what it is we are trying to accomplish. I think we all want the same thing. Thank you.

Councilmember Kualii: We live in one of the most beautiful places on the planet and everyone wants to come here to visit. The tourism industry, if you will, from one extreme to another, from the smallest impact to the largest impact, this is probably the thing we need to be most concerned about as far as protecting our environment and communities. It is only reasonable that we listen to the activists, the longtime activists, who have suffered, because they know firsthand the twenty (20), thirty (30) years of abuse. We have to do something and this is just a small, first step, and ultimately there are going to be unhappy people, but in the long run this is meant to make it better for all of us, including the visitors that come and enjoy our beautiful island. I can support this. This is just the immediate Bill. I am looking forward to getting started right away on the comprehensive bill because I think there are a lot of specifics that we have to deal with too. I will always be as fair as I can, but I will always be looking to protect our *‘aina*, environment, and our communities

and environment. That is where I am coming from. Thank you to everyone who testified.

Councilmember Yukimura: I support taking out lessees from the definition of homestay as a very important way to make a distinction between residents who are operating a small business from outside investors and speculators who want to make a lot of money off of Kaua'i real estate while affecting neighborhoods. I wish we could have issued short-term operating permits to those who have been long term responsible B&B or homestay operators. I am very, very sorry for how they have been treated and affected in the process for the sins of TVRs, which are very different from B&Bs. I think we all need to really make that distinction. I do hope that we are moving toward a rational system where those who have been operating will be allowed to continue under controlled and strict conditions. I know that we have a lot of work ahead of us to really do a comprehensive regulation of B&Bs and homestays. I am willing to do the work and I thank everyone who has participated in this process.

Councilmember Hooser: I want to start by saying that I support a regulatory framework for B&B/homestays, a comprehensive one, and that limits them in certain areas, creates a formula so there are not excessive impacts on neighborhoods. That perhaps has a tiered approach where one-bedroom is not so bad or easier to get, and where a person has three (3) or four (4) bedrooms, that is a whole different story. I am opposing this today because I do not believe it has been handled properly. I believe that it is a rush to deal with the TVRs and to close this loophole. There is excellent editorial commentary in the paper, I think it is today, where it talks about the Planning Director's comment about the TVRs were a "wolf in sheep's clothing." And he mentioned that in order to get to the wolf, we are going to kill all the sheep. That is what it seems like is happening here. The B&B is the least impactful of this type of accommodation, hugely different. You have somebody on-site, you might only have a few bedrooms, you have long-term operations with no complaints, and yet we are going to send them cease and desists orders. I think it could have been handled much better than it has been, to put it modestly. I think that putting people out of business that have been good citizens and have operated with no complaints over a number of years is not the right way to approach things, which is why I supported Councilmember Yukimura's proposed amendment last week which simply said, "let us let those who have been operating on the up and up, legitimately in terms of paying their taxes for a number of years, let us let them continue to operate under temporary permits while we figure out this permitting process." I think that would have been a fairer approach. Nonetheless, that did not pass, and so for that reason as well as many others, I will be voting in opposition of this today. Thank you.

Council Chair Rapozo: Thank you. Did anyone else want to speak for a second time? If not, I will be supporting this Bill today. If you ask the neighbors, the people who live in residential areas, what is the difference between a B&B and a TVR, they do not know the difference. They could not tell you. A rental car pulls in, stays for a few days, and they pull out. They pull in, they pull out. They have a party...to a resident neighbor, they do not know the difference. To us, maybe because of taxes and permits there is a difference, but the neighbors do not know. All they know is that their neighboring unit, their neighbor, the house is being rented out to tourists. That is all they know. Our forefathers were brilliant, because they created areas that were called "visitor designation areas." That is where visitors were supposed to be placed. They did that for a reason, so neighborhoods would remain as neighborhoods, agriculture would remain as agriculture and visitors would have an

area too whether it is a hotel, motel, inn, vacation rental, that is what it is. That is what the law says, "No, TVRs outside of the VDA," specifically, but over the years for whatever reason probably to create economic drivers or the promise of money, or whatever it was, we started to deviate and say, "It will be okay, we will let one or two, or three," and it became an industry. Now, we have over a thousand, including B&Bs, TVRs, and whatever homestays, you saw the picture of the bucket with the toilet seat saying, "Take care of your own waste," that is true. It is existing today. We created a new industry. As we look at the Bill, we have to get a handle on it. The guesthouse...when we sat through the TVR debate years ago, the B&B was touted as being the type of accommodation that visitors would be able to come, sit with the owner of the house; grandmother, auntie, *tutu*, and learn the culture and sites, get cooked meals – that was the true sense of a B&B. I believe that should be the same definition today, not these creative guesthouses. I agree that should not even be called a guesthouse, it should be called an exterior bedroom, a disconnected...but that is for another discussion. The fact of the matter is that the neighbors do not see the difference, but they see the impact. We have to get some kind of structure and as I believe Councilmember Kagawa said, as we go down this new road and we see things that have to be changed, we have that opportunity to do so. We have to keep in mind that when we talk about fairness and equity, we cannot just think of fairness and equity for the operator. We need to think about fairness and equity for the person who lives in that neighborhood as well. Is it fair and equitable that that person has to deal with visitor traffic, if you live in a high density residential area that has homestays or TVRs? Is that fair and equitable that they pay the same property tax as the guy that lives on a street that does not have homestays? It is a two-sided coin. You flip the coin and that is where we are today, but I do believe we have to start somewhere and this is a start. I am only hoping that as we go down the road and we do treat this with fairness and equity and if there are opportunities later to make some necessary changes to keep the fairness and equity, that we do so. We cannot continue to let this thing grow and grow and grow. The fact that these units cannot be used as long-term rentals, I completely disagree. If you look at Craigslist, the classified ads, look at the people, go to Kaua'i Community College (KCC) and look at the college students looking for rooms to rent, that is long-term. They are not here for three (3) nights. They are going to stay in that unit. I tell you what the difference is between a long-term room rental for a KCC student which is probably two hundred dollars to three hundred dollars (\$200-\$300) a month versus a hundred bucks (\$100) a night. That is the difference. I disagree that you could not convert a guesthouse...and there are a whole bunch of concerns I have regarding the lockouts, you know we still prevent lockouts on houses, multi-family dwellings and we did not even get into that today, but we will as we debate the next phase of this ordinance. With that, roll call.

The motion for adoption of Bill No. 2571, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii,	
	Yukimura, Rapozo	TOTAL – 6*,
AGAINST ADOPTION:	Hooser	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Pursuant to Rule No. 5(b) of the Rules of the Council of County of Kaua'i, Councilmember Yukimura was noted as silent, but shall be recorded as an affirmative for the motion.)

Council Chair Rapozo: 6:1 motion carries. We will take a ten (10) minute caption break.

There being no objections, the Council recessed at 4:40 p.m.

The meeting was called back to order at 4:50 p.m., and proceeded as follows:

Bill No. 2582, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 (*Fiscal Year 2015-2016 Operating Budget*): Councilmember Chock moved for adoption of Bill No. 2582, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Councilmembers, what I am going to ask is that we save our comments for the next bill and that would allow for the ten (10) minutes, if you need ten (10) minutes. Considering the time, but I will leave it up to your discretion, but you would have five (5) and five (5) anyway. I just ask that we be brief and short because we do have a bunch of Executive Sessions. If there is no discussion at this time, let the record reflect that there are no members in the audience except for the two (2) members from the Administration. Roll call, please.

The motion for adoption of Bill No. 2582, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii,	
	Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	Hooser	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: 6:1.

Bill No. 2583, Draft 1 – A BILL FOR AN ORDINANCE RELATING TO CAPITAL IMPROVEMENTS AND FINANCING THEREOF FOR THE FISCAL YEAR JULY 1, 2015 TO JUNE 30, 2016 (*Fiscal Year 2015-2016 CIP Budget*): Councilmember Kualii moved for adoption of Bill No. 2583, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

Council Chair Rapozo: I am going to start with you, Councilmember Kagawa, and then we will go right around the table.

Councilmember Kagawa: I seem to always go first nowadays. First, I would like to commend our CPA (Certified Public Accountant) here, Councilmember Kaneshiro, Budget & Finance Committee Chair, on tackling this task. I believe the single most important function of the Council every year is balancing the budget, and trying to be fiscally responsible to our taxpayers in very drier times. The people out there are suffering, still, recession is still here. The middle-class is struggling, the poor are struggling even more. Everything is expensive and everybody's pay is not going up as much as it should. This is not a Kauai problem, this is a statewide,

nationwide problem, but I think we did okay in my view. When we heard the news that we still have one point four million dollars (\$1,400,000) of raises that will probably be forthcoming, that put us again at where we are spending more than we are receiving. Once that one point four million dollars (\$1,400,000) or one point five million dollars (\$1,500,000) bill comes in, we will again be one point four million dollars (\$1,400,000) to one point five million dollars (\$1,500,000) short in revenues compared to our expenses. That is not good business practice, not good personal practice when that occurs and I cannot see how that kind of spending; spending more than revenues, I cannot see how that creates for a good bond rating. If I was a financier, I would not rate that company high. I offered some cuts that would have closed the gap, and it did not get the support, but we moved on. I hope next year we will try to make that goal a top priority as far as the Administration in submitting their budget, and if the Administration does not do their part, I would expect this Council to really look at trying to change that direction. I think a business like government cannot continue in that direction. I hope that the experience this year will lead our Council next year to really tackle that problem and make the tough cuts. Of course, the Administration will not support our cuts that seem drastic or what have you, but it is our job, our function. The Administration's function is to ask for what they need to do their job, and the Council's function is to balance the books and make sure that in the end we can answer to our taxpayers whether we are being fiscally responsible or not. Certainly, raising property taxes, car fees, raising tipping fees, is all very tough at this time for anybody, because like I said our taxpayers are struggling. The only way you can achieve that is by making responsible cuts, but remember we always have page 34 of that CAFR (Comprehensive Annual Financial Report), I keep repeating myself like a broken record, that we have fourteen million dollars (\$14,000,000) in surplus every year, which is a good thing, not a bad thing, but let us utilize those cuts. Let us show that we are a business, that we can balance our books, and take from that amount and make that assumption. Hopefully, I am actually offering suggestions for next year, but as far as this year, like I said it is not perfect for me, but I will be supporting it and I thank all of the Members, everybody, has a different way of looking at things. I just hope that next year we can try to think like a business and make sure that we try and at least match our revenues and expenses. Thank you, Chair.

Councilmember Kaneshiro: First off I want to thank my fellow Councilmembers for getting through this budget with me. It was my first year. We had three (3) straight long weeks of budgeting, which is pretty tough. I want to thank the staff, the Mayor's Administration for their tireless work to prepare information, and answering questions. It was a great experience. I got to learn a lot about every single department. I am a CPA, but I am not a magician. It was a tight budget, we just do not have the money. If we had a lot of money available we could do a lot of stuff, but the money is just not available. I think we ran a tight budget, the Mayor provided a tight budget, we made some cuts, and no cuts are easy, I do not care what you say about it – a cut is not easy to do. We did cuts and we ran a tight budget and I think our job was to be fiscally responsible and that is what we did. I know next year I think we will be in an even harder budget because we know already what is coming down the tube. We have collective bargaining that is going to be increasing, I think it was eight million dollars (\$8,000,000), which is eight million dollars (\$8,000,000) we are going to have to find somewhere. I am glad that we were able to get through this budget without having to deal with that eight million dollars (\$8,000,000) this year, but next year it is going to be drastic and we are really going to have to tighten the belts again. It will be a tough budget, but I am glad we got through this first one. We got to a budget that is fair, fiscally responsible, and that is all we can ask for at the end of the day. I do not think we are in a position to

completely micro-manage all the cuts. I had a lot of testimony that we needed to cut more, but it is difficult to find a cut and we mentioned that earlier. I do not know who needs to be where, I am not in the daily operations to know do they really need to money or do they not need the money. With the perspective that we are at, I think we did a good job of what we did, and I just wanted to thank everybody for going through the process. It is a long grueling process and I look forward to actually seeing the fruits of our labor next year and see how tight we did run the budget. Hopefully, there is a lapse. I am not opposed to any lapses, because that is extra money to us that we can put on the side as a reserve. I am really looking forward to seeing all of our hard work, I know we worked hard on it now, but it takes a year to actually see the fruits of your labor, and where the budget ends up. Thank you everybody for being patient.

Councilmember Chock: Thank you everyone for the hard work. I know it was long and hard but thanks to Council Services for helping us along the way. The Administration as well for taking some small steps in moving us in the direction as we still have a reserve that we need to build. For me the message is we probably will have to get a lot bolder in our approach and how we do that is really what we are faced with in the upcoming budget, as Council Vice Chair shared. We have a hill to climb. On the income side, I think that we really need to consider what has happened with the State with the passing of the GET and my hope is that we can have that discussion early on and see what can be done in order to not only build our income, but also protect our residents. I am already thinking about how we can do that if it is some sort of an exemption for local residents, but that we can get that kind of income that we need to keep competitive and with the growing budget. On the expenses side, I want to go back on what I said before which is looking at the root cause. Our biggest expenses are really in terms of personnel and collective bargaining, so I would encourage our Council as I mentioned before, to really take this issue by the reins and look across the State and see how we can collectively approach and make some collaborative decisions that are going to be beneficial to this County running, because if we cannot keep up with the demands of our bargaining units then there will not be no County to run, in the long run. There is of course the internal needs that I think we can constantly improve upon and I am looking for more efficiency and more accountability, sorry, I was not here to support some of the audits that were being proposed, but I think that is one aspect. We need to look at our performance evaluations. I thought Councilmember Kualifi did a good job of really looking into the details of each position, the vacancies, but let us look at every position and their role, function, and how we need to either keep them or move them, but downsize government in any way possible. Lastly, is how it is we as a County start to move toward engaging the community for the things that we need because I do not think...I know we all know that we cannot do it ourselves, but truly I do not think we have been organizing enough to engage community and seeing that a lot of the work that we need to get done from a County's level gets done. With that, thank you so much for the time.

Councilmember Kualifi: *Mahalo nui loa* to our Mayor, Managing Director, Finance Director, Budget Director, Director of Human Resources, all of our Directors and Managers, and all of our dedicated workers throughout the County. *Mahalo* for helping me to do the intensive analysis I needed to do. I am sure it was not easy fulfilling all of my detailed requests and I want you to know that it is deeply appreciated. I wanted my closing remarks to be from a place of, "The glass is half full," however, because this County has once again allowed annual expenses to exceed annual revenues, thereby decreasing our unassigned fund balance even further, my remarks can only be from a place of, "The glass is half empty." The glass is half empty

because we have been unwilling to reduce our budgeted expenses to at least the level of our forecasted revenues or to put it simply, we are not willing to live within our means and we are not saving for the rainy day we know is coming. The glass is half empty because after hours of careful analysis, I could only propose and get support for partially cutting nine (9) vacant positions, salaries totaling one hundred and thirty-eight thousand dollars (\$138,000) and I could only propose and get support for eliminating one dollar funded position. My nine (9) proposed cuts, though carefully crafted and unanimously supported, only represent one-tenth (1/10) of one percent of salaries. Salaries which make up over eighty percent (80%) of our one hundred and eighty-two million dollar (\$182,000,000) budget. The glass is half empty because our Mayor and Directors though equipped with a special budget cutting Vacancy Review Committee were only able to dollar fund fifteen (15) positions and eliminate seven (7) of the numerous vacant positions. Still, I credited and thanked the Administration for stepping forward and making those cuts. It begins moving our budget in the right direction and hopefully is a sign of a more meaningful cuts to come. Recognizing the added value of community groups volunteering their labor for new County facilities, such as the new pavilion in Hanamā'ulu, that was built by the Hanamā'ulu Hillsiders, as well as the limitations for the Waimea residents to earn funding for their district due to limited development compared to other districts, I proposed and got unanimous support for thirty thousand dollars (\$30,000) for the Waimea district. I also proposed and got unanimous support for the Council's only two (2) proviso amendments. The first amends Section 13 which provides the Mayor with authority to transfer an unencumbered appropriation balance or portion between existing accounts within a division or between divisions in the same department. To address my wanting to review the justifications for these appropriations, the amended proviso now requires the Administration to submit all budget appropriation transfer forms by electronic copy as they are approved and processed throughout the year. The second amends proviso Section 19 requires the Administration to provide quarterly reports on vacancies, new hires, transfers, reallocations, or promotions. The newly added detailed information will allow me to more accurately determine the budget savings that can be obtained from vacant positions and delayed recruitments.

During the course of our deliberations, statements like "fearful" and "putting the County at risk" were made as we considered Vice Chair Kagawa's proposal to reduce the Countywide OPEB (Other Post-Employment Benefits) budget by eighty percent (80%), a reduction putting us at a ninety-two percent (92%) funding level which was still well above the forty percent (40%) funding level required by the State. Chair Rapozo and I supported this budgetary measure as a means of forcing our Administrative departments to tighten their budgets across the board throughout the course of the coming fiscal year. Unfortunately, because of false statements and fear mongering, Vice Chair Kagawa's bold budget cut of over one million dollars (\$1,000,000) failed by the vote of a single Councilmember. As I see it, the real fear and risk to our County is this, because of our failure to find more budget cuts this year, we will inevitably put ourselves in a more difficult situation next year. I am fearful that in our budget process next year, our tough decisions will be even tougher. Tough to the point of having to consider salary cuts or furloughs and possibly even the elimination of occupied positions. For the sake of all our County workers as well as all our residents taxpayers, I really wish we did better with this budget, but I will say I am happy that this new Council has been willing to make some tough cuts and that the Mayor understands this Council's commitment to fiscal efficiency. We have a lot more work to do and so I commit to you that I will continue working hard on budget matters throughout the year utilizing our newly amended provisos to find savings for next year's budget. Finally, I want to extend my deepest appreciation to our Budget Chair Kaneshiro, and to all our budget staff, especially Scott and Ashley,

for their direct support to me at all hours. I could not do this job without extremely competent and dedicated folks like you. *Mahalo*.

Councilmember Yukimura: He asked to go first.

Councilmember Hooser: I cannot stay and I voted already on the main operating budget and I tend to support the CIP budget, but whatever the procedures are, I can live with in my absence. I appreciate being able to speak now. I think it is important that as a no vote to express why I am voting no and before I do that, I would like to thank the Chair of the Budget & Finance Committee for a great job in managing the process and the Administration for their great work on this budget also. The reason why I am voting no is two-fold, primarily it is because of taxes. During the last six (6) months of last year, the majority of this Council was repeatedly pounded in the community week after week after week, the message was that the community was over taxed, people were being forced out of their homes, too many taxes and we have to do something about taxes. Week after week that message was pounded again by the majority of people sitting around the table, and yet here we are raising taxes on the community by not lowering rates. This Council is raising taxes on residents and I cannot support that and given the dialogue and activity, again, with most recent history, it is even harder to support that. I did what I could to walk the talk, if you would, I introduced a bill to freeze taxes for a category at a certain level, which was not passed. It would have forced the Administration to balance the budget within those parameters which would have been a million dollars (\$1,000,000) or so, cut, if you would, before they even started. Again, I introduced a measure to lower rates for owner-occupied properties. I can live with that. I tried just like other people have tried their cuts, I tried mine and was not successful, but I think with the messages that have gone out over and over again about taxes, I felt compelled to point out to people that in fact this Council is raising taxes by not lowering rates, that is number one. Number two, during that same time period week after week, the majority of this Council talked repeatedly about the need to tighten our belts to do more with less, to run the County like a business, to live within our means – over and over again. In this budget, I do not believe we have done that. We cut the budget by point two percent (0.2%) and I was glad to hear the Chair of the Budget & Finance Committee acknowledge that it is hard to cut. It is easy to talk about cutting, pound on it, and we have to do more with less, we have to do this or that, but it is hard to make it happen. I want to acknowledge that and point that out to the community, that when all is said and done, it is hard. Cutting a retiree's health benefits is not saving money, it is just putting off money for the future. I applaud those who did introduce cuts, but for the record no one introduced any cuts that involved any pay to any government employees, we cut two (2) vacant positions, and some other odds and ends. No one proposed cuts to live bodies. My budget attempts were around the tax area, and so I feel like I did what I could do. We do not have a balanced budget or a sustainable balanced budget in a manner that has been pointed out by two (2) other Councilmembers. The money coming in and going out is out of balance. We spend more than we take in. For those reasons, I am voting no. I agree with everyone, we need to do more with less, and I hope that in the future when we have discussions with the public about these issues whether it be taxes or how we balance our budget, that we take into consideration the reality of how it is and it is hard to do this. I thank again the Chair and the Committee for the work they have done on this. Thank you. I have to leave, but thank you.

Council Chair Rapozo: Thank you.

(Councilmember Hooser was noted as excused at 5:14 p.m.)

Councilmember Yukimura: I want to begin by thanking and acknowledging our Budget & Finance Committee Chair. It was his first time on the Council, he took on the huge job of the County budget, and did an excellent job. It took a lot of courage to stand for protecting the Unassigned Fund balance, required saying no at times, but I feel our Chair kept the big picture in mind and did the right thing and led to closely balance the budget as much we could. I want to thank the Administration, especially the Budget Team, Finance Director Ken, and Budget Director Ernie, Managing Director, and all the team that worked with you, and then our Council Staff as always our new Clerk, our new Deputy, Ashley, Yvette on the team, and all the support staff. They have always been so helpful. I think this year we mainly tried to exercise restraint in not raiding the Unassigned balance, but as was pointed out we still have a far away to go, especially in my mind in creating a budget that is preparing Kaua'i for the future in terms of housing, transportation, and parks, and some really important needs for a good quality of life and supporting our people. Budgeting is not just about cuts. I think we get into a really bad space when we are only thinking about cuts. To me budgeting is also about securing adequate revenues and if you think this year was hard, just imagine how it would have been if we did not take action last year and the year before in setting up the additional revenue sources that we did approve, some of us, two who helped are not around because it took a lot of courage. If we did not have the nine hundred thousand dollars (\$900,000) from the Residential Investor class that was approved last time, our Timeshare assessment change that we made yielded us one point seven, five million dollars (\$1,750,000), there is one person around the table that did not vote for that. The vehicle weight tax is one point one million dollars (\$1,100,000) that is the one that was passed a couple years ago, but we would not be able to repave our roads and do that. The rate on Hotel & Resort was increased slightly and that is helping us balance the budget this year. Without a total of three point eight million dollars (\$3,800,000), can you imagine what we would have had to do? It would really have meant cutting positions with warm bodies. I believe people do not mind paying taxes and fees if they can be assured that they will get back well-managed and delivered services and facilities such as better roads and more frequent bus service. The previous generations made a lot of sacrifices for the present and future generations and sometimes we are asking people to pay the amount of two (2) Lattes per month extra, and compiled all of us doing a little bit can help us move ahead. I think we have to do it as long as we do it with several principles which I think we have been trying to follow. Everybody must pay a fair share. Users must pay at least a portion based on use; our solid waste users, bus users, road users are all paying a portion of use and then there is some subsidy. We also go by ability to pay, that is why we have the low-income tax credit, affordable rental credit, and we also have the Investor class, those are all examples of ability to pay; Timeshare rates and Resorts, these are all examples of ability to pay from the low end where they are not able to pay and we do not want to push people off their property and force them to sell to those who can pay and can help that way. Then, there is this principle of going gradually rather than waiting a long time and then creating a really big increase. In all these ways, I think we have to look at revenue sources as well as cuts and efficient services in cutting waste. There is the elephant in the room which is collective bargaining. People have pointed out that personnel is eighty percent (80%) of the cost, I do not know which corporation is that much all the time, but we have had one bargaining unit that has had...two (2) bargaining units have had six percent (6%) increases compounded while other people were being furloughed and cut. Four percent (4%) compounded over four (4) years. That is huge and every time we start to get ahead by our revenues or cuts then everything we gained is taken away by the increases in

collective bargaining. I do not believe anybody around this table is not in favor of fair wages and salaries, but it has gone beyond that and needs to be addressed.

Council Chair Rapozo: Thank you. I am going to be very brief because a lot has been said and I have said a lot during the budget session. Obviously, I am going to thank the staff, our staff, Jade, Scott, and everybody on this side of 'Eiwa Street as I call the barrier between us; the divider. We say this every year, but it is very difficult to convey the appreciation for our staff. I think Councilmember Kual'i said it best, "At all hours they are there to help and we could obviously not do what we do without them." Of course the Administration, if you take a snapshot of today...in the last few years since Mayor Carvalho put together the Budget Team, I cannot remember, it has to be about five (5) years now and the Councilmembers that are here that were there at the time, will agree that it is really night and day. The responses are quick, accurate, and we appreciate that. I know you folks get bombarded by requests during the budget because I see them all, we all do, and it is just huge and we appreciate the work that you folks do on that side of the line. Of course, the Members, during the budget process. At some points contentious, like it was today, but the rookie came through. Councilmember Kaneshiro who I...and I say this with all sincerity and I do not mean any disrespect to the former budget chairs, but I think this was probably the smoothest run budget I have ever participated in, in all my years on the Council. Maybe that is not fair because in the older days we had more discussion, more surplus money, but nonetheless I think the contentious issues that came up were all handled extremely well by Councilmember Kaneshiro, so there was some truth to that statement that I just made. Thank you, Councilmember Kaneshiro. I remember when he came up to me, he was really nervous, you could see the fear, but obviously he did a great job. You know we talk a lot about spending and revenues and all seven (7) of us have different ideas on this side of the railing and then of course on the other side; members of the community, as well as members of the Administration, have different ideas as well. But I think we can all agree on one thing, which is we have to become a more efficient operation. We just have to be more efficient in everything that we do. You make the decisions to cut certain areas of government, programs, but that will only take you so far and then you start cutting bodies. If we could get to a point where we run more efficient, where we can do more with less, and I speak for everybody including Council Services. We improve that way. That is why I had proposed the audits. That is like the bad word over here, no, do not do an audit. I joke with Councilmember Kaneshiro, I do not know if you saw his hat, he has an "AK" on his hat for Arryl Kaneshiro. I said I finally figured out what that stood for, "Audit Killer." I finally figured it out. I do appreciate Councilmember Kaneshiro's immediate comments so we did not have to discuss it, he basically said, we just do not have the money, and I appreciate and respect that. I will continue to advocate for audits because audits are a good thing. If we look at the audits and learn from the way we do things and follow recommendations whether it is a performance audit, management audit, staffing audit, I believe that we will enjoy some savings in the long run. I will be proposing some in the very near future and hope we can get some support, including from the Administration. We will pay for it, not you, but I think collectively we should be able to put our minds together and figure out what audits should be done, and be really open-minded about it and like I always say, "Put on your big boy panties and deal with the results." That is the only way we are going to fix it. Going forward, we have some pending audits that were done, but has never made it to this floor. I instructed Jade to compile what has been presented here and what has not, and we will start with those. The audits that have already been done that have come up with recommendations that have been provided to the Administration and to the Council and follow-up on those recommendations to ensure they have been followed. We will

start with those audits that have already been conducted and make sure that we are working towards a resolution with the recommendations that have been provided. I think the best way to do that is in a transparent way here on the floor so the public can see and the public holds everybody accountable to do what we have to do. I believe that is vital and we will be moving on that. I am not going to debate the issues on OPEB and everything else because we all have again different opinions, competing interest at times, but I will say this, sometimes you have to make tough decisions and sometimes I always use the analogy of a swimming pool, everybody wants a swimming pool in their yard, but if somebody offered me a free swimming pool in my yard, I would love to say yes, but if I cannot afford the maintenance cost to keep that swimming pool properly, then I should not accept the swimming pool to begin with. That is the kind of mentality we really got to start thinking about. It is not just about chasing free money. It is about stopping any type of activity that is going to create future expenditures on the County right now until we get settled back, until we have a reserve that is in place where we want it to be. But we have the tendency in this County as I have seen over the years, we want to go after the money, we want to go after the free Federal money and we will deal with the future cost at a later time, but right now we are paying the price for all of that. We are paying the prices today of decisions that we made ten (10), fifteen (15) years ago, and I think we have to be more concise of that. As we decide on what we are moving forward on, we need to really take into account the future cost of some of the projects that we do. Other than that, I can respect Councilmember Hooser's no vote, I voted no several times against budgets because I did not agree with certain aspects of it, but this one here, I would like to think of the "glass half full," but I can totally understand and appreciate Councilmember Kualii's assessment or perception that it is half empty. July 1st is right around the corner, let us just work together and try to get Councilmember Kualii to see the glass as being half full and celebrate the small victories because we have so many opportunities that we can work on. With that, I knew it Councilmember Yukimura. I think I figured you out. Go ahead, Councilmember Yukimura.

Councilmember Yukimura: Good, because my husband has not. Chair, I appreciate your words, I just have a hard time reconciling what you just said about the Adolescent Drug Treatment Center today because that is what I was looking at, future costs on some projects, and how we will maintain and sustain them.

Council Chair Rapozo: Real simply, I value the life of our kids. That is the simple answer to that. To me, that is the cost that we cannot avoid, because if we do not do it, nobody will. I do not want to get into the debate of the treatment center, but I think my comments were more about the swimming pool than the substance abuse problem on the island.

Councilmember Yukimura: Alright, thank you.

Council Chair Rapozo: But I appreciate that. I am in a good mood now.

Councilmember Yukimura: I better start asking.

Council Chair Rapozo: I failed to ask the Administration if they had any comments, and I will offer that now, if not, thank you very much. Roll call.

The motion for adoption of Bill No. 2583, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, and one (1) excused.

Council Chair Rapozo: Okay, thank you very much. Congratulations, I hope we satisfied your desires. Can you read the Executive Sessions, please?

EXECUTIVE SESSION:

ES-801 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing and request authority for settlement as it relates to Defendant Shaylene Iseri (in her individual capacity) in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-802 Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing and request authority for settlement as it relates to Defendant Sheilah Miyake (in her individual capacity) in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-803 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to request approval of a proposed settlement regarding United States Equal Employment Opportunity Commission ("EEOC") Charge Nos. 486-2013-00066, 486-2013-00345, present a proposed settlement offer in EEOC Charge Nos. 486-2013-00005 and 486-2013-00342, and provide a briefing on EEOC Charge Nos. 486-2013-00047 and 486-2013-00343 concerning the County of Kaua'i, Kaua'i Police Department, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-804 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding Association of Apartment Owners of Kulana vs. Travelers Casualty and Surety Company of America; County of Kaua'i (Civil No. 12-0027) and related Cross-claims and Counterclaims, as well as a request for approval of a proposed tax compromise for the Association of Apartment Owners of Kulana Condominium. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-801, ES-802, ES-803, and ES-804, seconded by Councilmember Yukimura, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:37 p.m.

Respectfully submitted,



SCOTT K. SATO
Deputy County Clerk

:dmc

(June 3, 2015)

FLOOR AMENDMENT

Resolution No. 2015-44, Relating to Urging Hawai'i's Congressional Delegation To Address Excessive Campaign Spending By Proposing and Passing Amendments Clarifying That Corporations Are Not People With Constitutional Rights, In Particular Electoral Rights, and That Unlimited Campaign Spending Is Not Free Speech

Introduced by: JOANN A. YUKIMURA

Amend Resolution No. 2015-44 by amending the 12th paragraph to read as follows:

“WHEREAS, the United States Supreme Court in 1st National Bank of Boston v. Bellotti (1978) and Citizens Against Rent Control v. City of Berkeley (1986) unbelievably rejected limits on contributions to ballot measure campaigns because [they] the contributions pose no threat of candidate corruption; and”

(Material to be deleted is bracketed. New material to be added is underscored.)

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(June 3, 2015)

FLOOR AMENDMENT

Bill No. 2571, Draft 1, Relating to Establishing Procedures, Development Plans, and Future Growth Areas for the Līhu'e Planning District

Introduced By: MASON K. CHOCK

Amend Bill No. 2571, Draft 1, by amending SECTION 3, Article 5 title as follows:

SECTION 1. Findings and purpose: The Līhu'e Community Plan was completed by the Planning Department to update the Līhu'e Development Plan of 1976 and was developed through an extensive public participation program and with guidance from a community working group. A community plan adopted by Ordinance under Chapter 10, Kaua'i County Code 1987, as amended, is the equivalent of a "development plan" referenced in the Charter of the County of Kaua'i, Article XIV, "Planning Department." The purpose of this bill is to repeal Chapter 10, Article 5, Kaua'i County Code 1987, as amended (Līhu'e Development Plan of 1976) (Ordinance No. 335, November 29, 1977, 1978 Cumulative Supplement) and replace it with the Līhu'e Community Plan Implementing Ordinance."

SECTION 2. The content of Chapter 10, Article 5, Kaua'i County Code 1987, as amended (Līhu'e Development Plan) is hereby repealed.

SECTION 3. The content of Chapter 10, Article 5, Kaua'i County Code 1987, as amended is replaced by adding new sections as follows and by incorporating by reference the document entitled "Līhu'e Community Plan (2014)":

[“]Article 5. [“]Līhu'e Community Plan Implementing Ordinance[”]

Section 10-5.1 Title and Purpose.

(a) This Article shall be known and may be cited as the "Līhu'e Community Plan Implementing Ordinance." It is adopted to implement the intent and purpose of the adopted General Plan and to amend or refine certain portions of the General Plan which are found to be necessary in order to recognize more detailed information and more precise community goals and objectives.

(b) Nature of the Līhu'e Community Plan Ordinance. This Article provides recommendations and policies to direct future development and capital improvements in the Līhu'e Planning District, whose boundary includes the Wailua River (North), including Kipū and Kipū Kai; and from Wai'ale'ale mauka to the ocean.

(c) The guidelines of this Article are based on the report entitled "Līhu'e Community Plan (2014)," a booklet whose major components include:

- (1) Līhu'e Community Plan Land Use Map
- (2) Urban Edge Boundary for the Līhu'e District
- (3) Special Planning Areas for the Līhu'e District
- (4) Future Roadways and Parking in the Līhu'e District
- (5) Policies for the Līhu'e District Communities
- (6) Implementation and Monitoring

Section 10-5.2 Vision and Goals

The vision and goals for the region as a whole referred to in this Article, which shall be known as the Līhu'e Planning District, and its communities, which include Līhu'e Town and Civic Center, [Greater] greater Līhu'e and Kapaia, Hanamā'ulu, Puhi-Pū'ali-Nuhou, Nāwiliwili-Niumalu-Kalapaki, Kīpū, and Kālepa, are described as: Vision for the Līhu'e Planning District. The Līhu'e District shall be a place with walkable, compact communities, each distinct yet connected, and each with its own unique identity and sense of place. Green, open spaces between communities serve as visual and physical buffers and evoke Kaua'i's rural essence. Līhu'e Town serves as a destination and gathering place for the island, with a vibrant Town Core and a desirable mix of uses and attractions for residents and visitors.

Section 10-5.3. Implementation of the Līhu'e Community Plan

The Līhu'e Community Plan shall serve as a guide for all development within the Līhu'e Planning District.

The Planning Department shall develop an outreach program to work with existing community organizations and interested individuals to implement the Līhu'e Community Plan and shall report on the progress made towards implementation, as well as the monitoring of community indicators, to the Planning Commission on an annual basis."

SECTION 4. Severability. If any provision of this Ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 5. Material to be deleted is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 6. This Ordinance shall take effect upon its approval.

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(June 3, 2015)

FLOOR AMENDMENT

Relating to Amendments to the Lihue Community Plan (2014) Booklet as referenced in Bill No. 2571, Draft 1, Establishing Procedures, Development Plans, and Future Growth Areas for the Lihue Planning District

Introduced by: GARY L. HOOSER

1. Amend Section 5.1.5 Agricultural Lands, Policies (Page 98, of the Lihue Community Plan (2014) booklet), by adding an additional bullet following main bullet 4, as follows:
 - “• The General Plan Update (commencing 2015) should examine agricultural policies, ordinances, and best practices to manage [these] concerns and should recommend an island-wide approach to mitigate [these] potential conflicts.”
2. If any provision that is amended is also found elsewhere, such language is hereby amended to provide consistency.
3. If more than one amendment to a same section is adopted on this date, all such amendments shall take effect to the extent there is no conflict. If there is a conflict, the latest amendment shall be controlling.

(Material to be deleted is bracketed. New material to be added is underscored.)

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(June 3, 2015)

FLOOR AMENDMENT NO. **1**

Bill No. 2587, A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

Introduced by: JOANN A. YUKIMURA

Amend Bill No. 2587, Draft 1, by amending the definition of "Homestay" in Section 2 of the bill to read as follows:

“**Homestay**” means an owner occupied dwelling unit in which overnight accommodations are provided to transient guests within the same dwelling unit in which the owner resides ~~or in a guest house and said residential structure is the owner’s primary residence~~ and the respective owner currently benefits under Sec. 5A-11 of this Code for a homeowner’s exemption for the homestay site provided that the guest house was permitted prior to the date of enactment of this ordinance and used as a homestay prior to the date of enactment this ordinance and where the homestay guest house is on agriculture zoned land, the owner-occupied dwelling unit must be part of a bona fide farm. [A guest house may not be used as accommodations for transient guests in a homestay operation.]”

(Material to be deleted is bracketed.)

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(June 3, 2015)
FLOOR AMENDMENT NO. 2

Bill No. 2587, Draft 1, A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

Introduced by: JOANN A. YUKIMURA

Amend SECTION 6 of Bill No. 2587, Draft 1 to read as follows:

“SECTION 6. This Ordinance shall take effect upon its approval and
shall apply to all applications for use permits that have not received approval from
the Planning Commission prior to the date of approval of this Ordinance.”

(Material to be deleted is bracketed. New material is underscored.)
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(June 3, 2015)

FLOOR AMENDMENT NO. 3

Bill No. 2587, DRAFT 1, A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

Introduced by: GARY L. HOOSER

Amend Bill No. 2587, Draft 1, by amending the definition of "Homestay" in Section 2 of the bill to read as follows:

“**“Homestay”** means an owner occupied dwelling unit in which overnight accommodations are provided to transient guests within the same dwelling unit in which the owner resides or in a guest house and the respective owner currently benefits under Sec. 5A-11 of this Code for a homeowner’s exemption for the homestay site. [A guest house may not be used as accommodations for transient guests in a homestay operation.]”

(Material to be deleted is bracketed. New material is underscored.)
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